February 2, 2000

OFFICE OF THE HEARING EXAMINER
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REPORT AND RECOMMENDATION AND SHORELINE DECISIONS

SUBJECT: Department of Development and Environmental Services
Preliminary Plat Application File No.**S128903** (Proposed Ordinance No. **1999-0574**);
Shoreline Substantial Development Permit Application File Nos. **L98SH006, L98SH007, and L98SH008**

TREEMONT
Preliminary Plat and
Shoreline Substantial Development Permit Applications

Location: Lying approximately 5 miles southwest of Carnation, 2.5 miles northwest of Fall City and generally on the northerly side of SR 202 and generally bounded by SE 16th Street on the north, SE 24th Street on the south, 292nd Avenue SE on the west and 304th Avenue SE on the east, if all roads were extended

Owner Developer: **Bob Johns, Esq.,** *representing*
Reed McClure
Two Union Square
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Telephone: 206-292-4900

Port Blakely Communities
1775 – 12th Ave NW, Ste 101
Issaquah, WA 98027

King County: **Rich Hudson**, *representing*
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SUMMARY OF DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions (modified)
Examiner's Recommendation:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Applications submitted:	
Subdivision	December 30, 1998
Shoreline	August 17, 1998
Complete subdivision application:	December 30, 1998

EXAMINER PROCEEDINGS:

Hearing Opened:	November 2, 1999, at 9:30 AM
Hearing Closed:	December 3, 1999, at 4:40 PM

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

Application completeness
Drainage
- diversion variance
- flooding

Geotechnical
- erosion and landslide hazards
- stream sedimentation
- temporary erosion control

Land use
- rural character

SEPA substantive authority
Roads and traffic
- construction traffic
- levels of service
- mitigation funding
- offsite shoulder improvements
- plat access
- regional facilities
- trip distribution

Shoreline permits
Vesting

SUMMARY:

Approval of the preliminary plat application is recommended subject to a condition requiring limitation of residential development to 71 lots until funding for the State's share of the Sunset Interchange is assured. Approval of the three shoreline permits required by the project is also granted.

FINDINGS AND CONCLUSIONS: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer:	Port Blakely Communities 1775 - 12th Avenue NW, Suite 101 Issaquah, WA 98027
Engineer:	Hugh G. Goldsmith & Associates, Inc. 1215 - 114th Avenue SE Bellevue, WA 98009 Phone: (425) 462-1080
STR:	Portions of Sections 5 & 6, Range 24N, Township 7E
Location:	The proposal is located in the Snoqualmie Valley area of unincorporated King County, approximately 5 miles southwest of Carnation, 2.5 miles northwest of Fall City and 8 miles northeast of Issaquah. The 239-acre site lies generally on the northerly side of State Route 202 and generally bounded by SE 16th Street on the north, SE 24th Street on the south, 292nd Avenue SE on the west, and 304th Avenue SE on the east, if all roads were extended. The north boundary is adjacent to the approved Treemont North residential development, and the eastern boundary is adjacent to the Tall Chief Golf Course.
Zoning:	General (G zoning – vested one-acre density at plat submittal/1988) Rural Area (AR-5 – current zoning, 5-acre lot density)
Acreage:	239 Acres (plat only)
Number of Lots:	194
Density:	0.81 units/acre
Lot Size:	Average lot size approximately 37,000
Proposed Use:	Single-Family Residential
Sewage Disposal:	Individual Septic Tank
Water Supply:	Sammamish Plateau Water & Sewer District
Fire District:	#27
School District:	Snoqualmie Valley - District #410
Complete Application Date:	December 30, 1988
Subdivision Application Date:	December 30, 1988
Shoreline	

Application Date: August 17, 1998
Shoreline
Designation: All Locations, Shoreline of Statewide Significance - Conservancy
Shoreline
Waterbody: L98SH006/Snoqualmie River
L98SH007/Patterson Creek
L98SH008/Patterson Creek

PROCEDURAL BACKGROUND

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary reports to the King County Hearing Examiner for the November 2, 1999, public hearing are found to be correct and are incorporated herein by reference. Copies of the LUSD reports will be attached hereto for submittal to the Metropolitan King County Council. The LUSD staff recommends approval of the preliminary plat and shoreline applications, subject to conditions. Required corrections to the LUSD plat report include notations that the proposed density of the subdivision is 0.81 dwelling units per acre, that the shoreline applications were filed on April 17, 1998, and that the school impact fees applicable to the project are $3,490 per lot.

3. On December 30, 1988, a preliminary plat application was submitted by Port Blakely Tree Farms to subdivide 239 acres located east of SR 202 into 236 lots for single family development. At the time of filing the property was zoned G (General) under Title 21 of the Zoning Code and was submitted under the name Blakely Ridge South. On April 11, 1989, a determination of significance under SEPA was issued for the plat application and a notice of scoping issued. In September, 1989 a rural five acre designation was applied to the property pursuant to the adoption of the Snoqualmie Valley Community Plan and its supporting zoning. This five-acre designation was continued in place after adoption of the 1994 Comprehensive Plan and its implementing regulations. The property was designated Rural under both the 1985 and 1994 Comprehensive Plans.

4. Over the course of 11 years the preliminary plat proposal has been substantially reconfigured. The proposed plat of Treemont now seeks approval for 194 lots rather than 236. At the insistence of County staff Treemont now proposes to construct a new access road from the plat to SR 202 through the 15-acre Schroeder parcel, which was purchased by Port Blakely pursuant to a real estate contract dated January 31, 1992. Primary access had previously been proposed to the north, outletting via the existing right of way for Southeast 8th Street, with an alternative access to the south conceptually described through an adjacent Aldarra Farms parcel. A second major change the plat proposal has undergone since its original submission is to divert a substantial portion of site drainage from the property's western basin discharging to Patterson Creek and to reroute such flows east to the Snoqualmie River via a tightline.

5. The process of SEPA review for the Treemont project has involved the issuance of a draft environmental impact statement in August, 1994, followed by a major addendum in March, 1999, and a Final EIS in September, 1999. In his written final argument a neighborhood opponent,

Robert Seana, has challenged whether the publication of an addendum EIS for the project was appropriate in view of the substantial revisions made to the project and their attendant impacts. According to WAC 197-11-600(4)(c), the use of an addendum EIS is appropriate if it only "adds analyses or information about a proposal that does not substantially change the analysis of significant impacts and alternatives in existing environmental documents." If the revised proposal creates substantial changes likely to result in significant adverse environmental impacts, the use of a supplemental EIS is mandated.

6. Without commenting on the merits of Mr. Seana's position, we are required to find that the issue of EIS adequacy has not been raised in a timely manner. While KCC 20.44.120.A (5) acknowledges that "administrative appeals of the adequacy of a final EIS are permitted for actions classified as Type 2, 3, or 4 land use permit decisions in KCC 20.20.020....", there are no Code provisions that identify an event triggering a filing period for an EIS adequacy appeal. Since the issuance of a final EIS is not a land use decision within the meaning of KCC Chapter 20.20, such issuance is not an event authorized by Code for the filing of an EIS adequacy appeal. As a practical matter then, EIS adequacy appeals usually arise as part of the hearing process for the underlying permit, and the examiner process generally relies on due process considerations for identifying procedural requirements applicable to EIS adequacy appeals. This means that the EIS adequacy issue needs to be raised either at a prehearing conference or near the opening of a permit hearing so that all parties may have an opportunity to respond to the issues. Raising an EIS adequacy issue at the end of the hearing after the close of testimony within a legal brief does not satisfy due process notice requirements and must be deemed untimely.

7. The Final EIS for the Treemont project analyzed the 194-lot plat application as the proposed action and in addition reviewed a 47 residential lot alternative (as allowed under the current five-acre zoning), a no action alternative, and a lower density option of 100 lots. The Alternative 2 option would have been more useful at 80 rather than 100 lots because at the 80-lot level it would approximately represent the maximum amount of site development that could be accommodated using Southeast 8th Street as the sole access to the site. Site development in excess of 80 lots is agreed to require a second access to the site through the Schroeder parcel. Even though the Final EIS only identifies the impact to rural character as a significant unavoidable adverse impact of the 194-lot and 100-lot alternatives, under any reasonable reading of the record the necessity to develop a new access road over erosional steep slopes above Patterson Creek should also be regarded as potentially significant and adverse.

8. KCC Chapter 21.24 sets out the standards for the G zone, which was envisioned as a transitional regulatory mechanism applicable to rural lands expected eventually to be subject to urban development. The zone establishes a minimum residential lot area of 35,000 square feet, but permits lot averaging to achieve the minimum requirement. According to data submitted by the Applicant's engineer, the average lot size for the Treemont plat will be 36,411 square feet, with more than 80% of the lots projected to exceed the 35,000 square foot minimum.

   The Applicant expects to develop the site in phases, with some of the Patterson Creek sub-basin lots to be developed prior to the construction of the Snoqualmie River diversion. Based on the maximum development that will be permitted by WSDOT to use Southeast 8th Street for primary access without construction of the new Southeast 19th Street access road, the number of Phase I

lots will not exceed 20. Mitigation of construction impacts to Patterson Creek from the new access road will also require Patterson sub-basin drainage facilities to be built before the new road so that construction runoff can be pumped up to the R/D facilities and treated prior to release to Patterson Creek.

9. Three separate shoreline substantial development permit applications were filed on April 17, 1998. One of them seeks to authorize placement of a water line within the Patterson Creek shoreline area, including a boring beneath the creek bed. The second shoreline permit affects construction of the road improvements needed to widen SR 202 near the subdivision entrance, as well as the lowest portion of the plat entrance road, all of which lie within the outer limits of the shoreline jurisdiction for Patterson Creek. Finally, a third shoreline permit is required for the lowest sections of pipeline and the outfall for the stormwater diversion to the Snoqualmie River.

10. Some controversy has arisen regarding the water service and septic disposal provisions proposed for Treemont, focused primarily on the fact that certain required system approvals will not be obtained until after preliminary plat review. Water service to the plat was initially expected to be obtained from the Ames Lake Water District, but by the time of preliminary plat application the Sammamish Plateau District had been identified as the service purveyor. It was then estimated that Treemont would be required to construct approximately two miles of water main along the Duthie Hill Road right of way to serve the plat. At this point that figure has been reduced to approximately 6,000 feet measured from the southeast corner of the Trossachs development, where the water line currently terminates.

11. A certificate of water availability was initially issued for the plat proposal on October 6, 1988. It noted the water main construction requirement, plus the need for a water comprehensive plan amendment, developer extension agreement and either Boundary Review Board approval or district service area annexation proceedings. Even though provision of water service from the Sammamish Plateau District will effect an importation of water from one watershed to another, such transfer has been found to be in compliance with the East King County Critical Water Supply Boundary Agreement, and the District's new Water Comprehensive Plan draft contemplates service to Treemont. While Boundary Review Board approval of the annexation eventually will be required, the fact that the proposed service area does not include any properties outside the plat renders such approval a formality.

12. Each of the 194 proposed Treemont lots is slated to be served by an individual septic system. The County Health Department granted preliminary conceptual approval for the proposed septic service for Treemont on November 28, 1988. Since that time more detailed review has indicated that at least 60 of the proposed lots may lack the minimum soil depths required for septic approval. If such lots cannot be approved by the Health Department before the final plat is recorded, they may need to be consolidated or eliminated. The site is underlain at relatively shallow depths with an impermeable till layer, which accounts both for the thinness of the top soil and the high winter water table.

13. While the elimination of lots from Treemont based on failure to meet Health Department septic requirements remains a distinct possibility, it does not provide a basis for denying preliminary plat approval for lots identified as marginal for septic service. First, such a decision within the

instant proceeding would constitute an unwarranted usurpation of Health Department authority by the Hearing Examiner. Second, and more critically, it is simply not possible to determine septic feasibility until plat road cuts have been made and major site grading has occurred. Final septic approval takes place within the context of the ultimate configuration of the site, and such final decisions must necessarily be deferred well past the point at which preliminary plat approval is conferred.

14. Due to the long and convoluted history of the Treemont proposal, myriad issues have been presented regarding the vesting requirements for this plat. The basic standard applicable to subdivision vesting is stated at RCW 58.17.033, which requires a proposed division of land to be considered under the subdivision ordinance "and zoning or other land use control ordinances, in effect on the land at the time of fully completed application for preliminary plat approval...has been submitted...." Pursuant to this provision, the 239 acres within the Treemont plat boundary established on December 30, 1988, is deemed vested under the platting and zoning rules in effect at that time.

15. When a determination of significance has been issued and an EIS required, a second vesting date is created with respect to those plans, rules or regulations designated by the local legislative body as a basis for the exercise of substantive SEPA authority for the mitigation of adverse environmental impacts. For such mitigation measures (or for a denial under SEPA authority), the effective vesting time is the date upon which the draft environmental impact statement is issued (WAC 197-11-660(1)(a)).

16. The Draft EIS for Treemont was issued on August 9, 1994. This was just prior to the adoption of the 1994 Comprehensive Plan and Title 21A zoning ordinance, but after the enactment of the 1990 Sensitive Areas Ordinance and Surface Water Management Manual, as well as being subsequent to the adoption of the 1993 Road Standards.

    The Applicant's attorney has argued that, notwithstanding these earlier adoption dates, many of the plans and ordinances enacted by King County since December, 1988, are unavailable to the County to impose via the SEPA mitigation process due to defects in the County's SEPA substantive authority ordinance provisions. As noted by Mr. Johns, the policies, plans, and regulations employed by the County as a basis for the exercise of SEPA substantive authority must be "formally designated" as such in order to be available as a basis for mitigation measures.

17. First, we take no issue with Mr. Johns' basic point, which is that the section of County Code designating SEPA substantive authority has not been kept up to date. Looking at the provisions of KCC 21.44.080 as they exist today, one notes that reference is still made to the 1986 King County Road Standards (which were replaced nearly seven years ago) and that no mention at all is made of the County's current Intersection Standards ordinance, even though it constitutes probably the most frequently cited basis for imposing conditions of mitigation under SEPA. Nonetheless, the situation is not quite as dire as argued by Mr. Johns.

18. The Applicant's basic argument is that the County's SEPA substantive authority ordinance in effect on August, 1994, was Ordinance 9142, adopted September 29, 1989, and only it can be relied upon by the County to define its substantive authority. Specifically, Mr. Johns contends

that any later amendments which were adopted between 1989 and 1994 are excluded from consideration because Ordinance 9142 does not by its terms include later amendments. The authority cited for this propositition is the case of Republic v. Brown, 97 Wn 2d 915 (1982), which holds that a local ordinance that incorporates by reference a state statute only refers to the statute as it existed at the date of the local ordinance adoption, unless the words "and any amendments thereto" or language to similar effect has been included in the ordinance. According to Mr. Johns' argument, generic references within Ordinance 9142 to the Title 21 King County Zoning Code, the Shoreline Management Master Program, and the Surface Water Runoff Policy would not be effective to include any amendments adopted after 1989.

19. We are not persuaded that Republic v. Brown is controlling in this instance. There is an important difference between a local ordinance that incorporates a state statute and a local ordinance that merely references companion local regulations. In the former instance, there can be no logical inference that later changes to an incorporated state statute were contemplated and approved by the local legislative body. Such limitation, however, does not apply to a local legislative body referring to its own other enactments. Because the source of both the adopting and the adopted ordinance is the same legislative authority, it is reasonable to assume that a general adoptive reference also includes later amendments. This view is consistent with rules on legal interpretation that hold that local ordinances should be construed to make them effective in light of their legislative purposes and in such a manner as to avoid strained, unreasonable or illogical results. See, e.g. Stegrity v. King County Board of Appeals, 39 Wn App 346 at 353 (1989) and cases cited therein.

20. Since the Schroeder parcel has never been included within the boundaries of the Treemont preliminary plat application and was not purchased by the Applicant until 1992, there is obviously a strong argument against treating it as vested to development standards in effect in 1988 when the plat application was filed. Nonetheless, DDES staff has testified as to an established department policy to extend vesting coverage offsite where staff review has identified the need for additional plat facilities and made their provision a requirement of plat approval. It is the staff's position that because the new access road was required by it as a condition of plat approval, the Schroeder parcel should be regarded as vested to 1988 policies and regulations.

21. We are prepared to accept the staff's position on vesting for the Schroeder parcel within the scope of its logic. Certainly, the essential rationale for dating back facilities required by staff review is compelling, but it needs to be appropriately limited. For example, while the staff has required the construction of a new access road, the Applicant's decision to also site R/D facilities within the Schroeder parcel was its own decision unrelated to staff compulsion, and such facilities should not be viewed as vested under 1988 provisions.

22. Similarly, we find no compelling basis for regarding the three shoreline permits applied for in 1998 as vested to 1988 standards. Notwithstanding informal DDES policy, such permits are governed by the provisions of KCC 20.20.070, which requires their consideration under the zoning and land use control ordinances in effect on the date a complete application was filed. KCC 20.20.070(C) specifically provides that "vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals." Looking at the Schroeder parcel overall, it is our view that the proposed

road improvements within shoreline jurisdiction are vested to requirements in effect in 1998 when the shoreline permit applications were filed, but that the remainder of the road improvements outside of shoreline jurisdiction may be viewed as vested to 1988 requirements under the DDES policy described above.

As for the two other shoreline permits, the locations for neither the water line nor the drainage tightline and its outfall were imposed upon the Applicant by DDES staff review, and therefore no basis exists, informal or otherwise, for regarding the offsite elements of these facilities within shoreline jurisdiction as vested to regulations prior to their 1998 application date.

23. Fortunately, much of this vesting discussion has been rendered academic by the willingness of the Applicant to adhere voluntarily to more recent regulatory standards in an effort to adequately mitigate the adverse impacts of the proposal. Exhibit 58 contains the Applicant's list of more recent regulatory standards to which it has agreed to be bound. Accordingly, the Applicant has stipulated to development pursuant to the 1993 Road Standards, the current Sensitive Areas Ordinance (KCC 21A.24) within the plat boundaries, the 1998 Surface Water Manual, and the KCC Title 21A.43 School Mitigation Ordinance.

24. While this piecemeal pattern of voluntary compliance with some current regulations but not others presents a confusing approach, there appear to be no applicable regulations nor case law prohibiting such a selective vesting strategy. If one assumes that current regulations are going to be more strict than their predecessors, then voluntary compliance with current regulations necessarily confers a public benefit.

For Treemont, the only area where a finding of obvious public benefit might be questioned lies in the realm of traffic standards.

25. While the KCC Title 21.49 Road Adequacy Standards that were in effect in 1988 when Treemont was filed are less comprehensive in their scope than the currently adopted Integrated Transportation Program, the threshold for finding a direct traffic impact under the Road Adequacy Standards is much lower. Under KCC 21.49 a direct traffic impact requiring mitigation occurs at any level of service F intersection where the project will contribute 10 peak-hour, peak-direction trips. This is to be compared with the requirement under the present Intersection Standards that no significant traffic impact requiring mitigation occurs unless the project will contribute 30 peak-hour trips constituting at least 20% of the project peak-hour traffic to an LOS F intersection. For a large project like Treemont, there may be a number of intersections where the 30-trip threshold has been exceeded but the 20% requirement has not been met. The specific advantage for Treemont in volunteering for regulation pursuant to the current Intersection Standards is that direct impacts along the SR 202 corridor from Sahalee Way west to SR 520 are eliminated from review. This stretch of roadway possesses at least four intersections operating at deep levels of service F with no realistic prospect of immediate relief in the way of major roadway improvements.

GEOTECHNICAL

26. The 253-acre Treemont site consisting of the preliminary plat parcel and its adjacent access tract

are located at the southern end of a glacial drift upland that resembles the State of Florida in shape. To the site's southwest lies the Patterson Creek Valley with its rather narrow floodplain, beyond which rises the Sammamish Plateau. To the east the site steeply drops down into the Snoqualmie River Valley. While the crown of this upland feature is relatively flat, it is characterized by steep slopes along its base. A number of serious site development issues are associated with the slopes on the southwestern portion of the site where a new access road is proposed and utility crossings will need to occur.

27. Arterial access to this area is provided by SR 202, which threads its way along the southwestern edge of the glacial drift upland within a narrow corridor bounded on the western side by Patterson creek and its floodplain. Historically, the construction of SR 202 entailed both filling within the creek floodplain and cuts into the steep slopes to the east.

28. The Treemont site does not have a usable direct access to SR 202. Access to the plat property is currently obtained from the north via a road recently constructed within the plat of Treemont North, which outlets to the west to SR 202 via Southeast 8th Street. Because Southeast 8th Street has been cut into the western slopes of the glacial drift upland, it contains portions that traverse a 15% grade, with almost no flat landing at the bottom of the slope. In addition, sight distance at its intersection with SR 202 is constrained by the existence of uncut slope walls lying both to the north and to the south. The usefulness of Southeast 8th Street as a primary access to the Treemont site is further constrained by the County's "100 lot rule", now codified at KCRS 2.20, which requires that no residential street shall serve more than 100 lots or dwelling units unless connected in at least two locations with another functionally adequate roadway. After development of Treemont North, the access roadway designated Treemont Way Southeast would be required to serve more than 100 lots at the point at which the instant proposal exceeded 83 lots. Accordingly, since 1992 the Treemont application has been predicated on the construction of a new principal access road directly west to SR 202 in order to provide the second access necessary to avoid the safety and convenience limitations underlying the 100-lot rule.

29. While the upland portions of the Treemont site are underlain by a thick layer of Vashon till, the lower slopes adjacent to SR 202 are lacustrine silts and clays. These Kitsap series soils pose serious construction hazards resulting from rapid runoff, severe sheet erosion and low shear strength. In addition, the soil particles are very fine, thus reducing the efficiency of sedimentation control measures. Moreover, this lacustrine layer results in a high landslide hazard risk on the steep slopes overlooking Patterson Creek, which slopes are in the 40-60% range.

30. Construction of an access road that directly serves the Treemont plat from SR 202 (tentatively identified as Southeast 19th Street) will require the excavation and removal of a major quantity of soil. First, to achieve a road grade not to exceed 15% through the steep slope area, a major slope cut will be required, with side slopes tapered at a 4:1 angle to insure stability. In addition, creation of a new access road at this location will necessitate the construction of new turn lanes on SR 202. Because Patterson Creek is adjacent to SR 202 immediately to its west, any widening of SR 202 necessarily requires further cuts into the steep slopes to its east. Finally, due to SR 202's curvature, additional excavation into the steep slopes both north and south of the access intersection will be required to provide adequate entering sight distance.

Initial estimates for the construction of the new access road and widening of SR 202 at the Southeast 19th Street location projected a total excavation of 150,000 cubic yards. Road redesign work just recently approved by the County Department of Transportation within its road variance review process has reduced the amount of excavation predicted to approximately 113,000 cubic yards. The approved road variance retains a 15% road grade for approximately 300 feet, flanked on either side by stretches of 11% grades. The design projects a road cut within erosive lacustrine soils over a 600-linear foot length at a maximum cut depth of 47 feet. In addition, the existing slope along SR 202 will need to be cut back a further maximum amount of 40 feet, and one of the seasonal streams flowing from the property toward Patterson Creek will require an additional 75 feet of culverting. Finally, proposed road construction work will entail the filling of a farm pond on the access tract plus some wetlands at the base of the slope within the SR 202 right of way.

31. Employing retaining walls along SR 202 and dewatering trenches within the cut slopes, the road improvement proposed by the Applicant can be engineered to provide a stable facility. The major sensitive areas issues to be resolved relate to potential erosion and sedimentation during the construction period. Even though road construction runoff is proposed to be routed through the plat's R/D pond and filter system, most major excavation will occur at an elevation lower than the stormwater tract, resulting in a need to collect construction phase stormwater at the SR 202 right of way and pump it uphill to the R/D facilities. In response to this challenge, the Applicant's engineer has proposed a conceptual design for a temporary erosion and sediment control system involving prior construction of R/D facilities, seasonal constraints on road construction, sealing off the construction area with fabric along the SR 202 right of way, and pumping construction runoff up to the R/D system for treatment prior to release to Patterson Creek. In addition, the Applicant has proposed that implementation of the temporary erosion and sedimentation control plan be overseen during the road construction phase by a fulltime TESC supervisor.

32. While the Applicant's TESC conceptual design cannot be faulted, such systems often do not work as well in the field as they do on paper. Due to the fine-grained, highly erodable lacustrine soils, the sediment loading from this site will be high. Under the best of circumstances, two-thirds removal of the sediment load from runoff waters is considered to be an optimal performance. On the other hand, if the TESC system fails during an unseasonably large storm within the summer construction period, the site's slopes and adjacency to Patterson Creek guarantee that a disaster would occur. While Patterson Creek adjacent to the site was long ago channeled and degraded, it nonetheless provides juvenile rearing and holding waters for salmonid species that spawn both upstream from the site as well as just downstream in its Canyon Creek tributary. Due to Patterson Creek's low gradient adjacent to the site, substantial sediment deposition at this location would not dissipate but rather would accumulate, thus choking the channel.

33. From the beginning of project review a number of County staff commentators have questioned whether construction phase erosion and sedimentation control measures would be able to adequately control impacts at this location. In August, 1990, Derek Booth, then Manager of the Basin Planning Program at the Surface Water Management Division, offered the following

comments on erosion control in response to the proposed Draft EIS then being circulated for the Treemont project:

> "Erosion occurs wherever the soils are disturbed, at any slope inclination. The presence of erosion control measures may reduce some of that increased erosion, but the overwhelming evidence is that such measures are rarely installed and maintained correctly and are not fully effective, even if working properly, at eliminating erosion impacts."

And near the very end of the process, on October 15, 1999, Laura Casey, the DDES Senior Ecologist charged with review of wetland and streams impacts from the Treemont proposal, made the following comment in recommending against approval of the Applicant's proposed new access road:

> "Patterson Creek is a major stream that supports salmon species including Chinook, recently listed as threatened under the Endangered Species Act. Construction of this access road would require substantial regrading of a moderately steep and erosive slope and eliminate nearly an acre of wetland (0.82 acres) and a quarter acre of stream buffer (0.22 acres) located immediately upstream of Patterson Creek. A significant risk of increased erosion and sedimentation would result from this road construction. Mitigation measures identified in the EIS include implementation of 'best management practices' from the King County Surface Water Design Manual (1998) and an 'independent' special inspector (hired and paid by the developer). Success of these measures depends on the good faith of the developer and constant vigilance for the Land Use inspector. Based on my observations of many development sites, in my opinion this cannot be relied upon to mitigate the risk of adverse impact of increased erosion and sedimentation into Patterson Creek."

34. Area residents who oppose approval of the Treemont plat at the density proposed also were quick to point out the recent problems with construction-generated water quality impacts experienced upriver at the Snoqualmie Ridge project, where 320 violations of water quality standards have been reported since 1995 despite an expenditure by the developer of nearly $16,000,000 on water quality consultants and erosion control measures. A Seattle Times article dated November 1, 1999, submitted by neighborhood opponents noted that streams that traditionally had had nephelometric turbidity units ("NTU's") below 15 have often exceeded 3,000 NTU's since construction began at Snoqualmie Ridge, with resultant fish kills ranging between 50 and 90% in two onsite streams.

35. The upper reaches of Patterson Creek provide spawning grounds for Chinook and Coho salmon as well as rainbow and cutthroat trout. A once relatively healthy wild Coho population in the Creek has plummeted since 1985 as an apparent consequence of habitat degradation. The lower reaches of the Creek provide juvenile rearing habitat for all the identified salmonid species, including a population of steelhead that spawns in Canyon Creek. Sedimentation impacts resulting in high turbidity can cause respiration problems to juvenile salmon, eliminate benthic organisms within the fish food chain, induce dysfunctional behavioral modifications, and exacerbate a shortage of dissolved oxygen.

36. In evaluating the potential adverse effects to Patterson Creek from a large erosional event associated with construction of the new access road, one also needs to bear in mind that if Southeast 19th Street is not constructed, the Applicant would be forced instead to perform a major upgrade at Southeast 8th Street, the existing road access to the north. Southeast 8th Street is affected by constraints similar to those identified for the proposed Southeast 19th Street access, that is to say, steep slopes, Patterson Creek nearby, poor sight distance, and the need for an expanded landing at the intersection. Although the length and depth of excavation required to regrade Southeast 8th Street is far less than that proposed at Southeast 19th, the total quantity of soil removal would likely be in the 35,000-40,000 cubic yard range, probably require easements from adjacent property owners along SR 202 and Southeast 8th Street, and cause a period of disruption of the existing use of the SR 202/Southeast 8th Street intersection. One advantage of the Southeast 19th Street option is that, being an entirely new roadway, its development would not cause the same level of neighborhood inconvenience as would the reconstruction of the existing roadway at Southeast 8th.

37. Controlling the post-construction erosional impacts from Treemont after the site is built out and the roadway cuts healed should be more manageable. All residential development draining to Patterson Creek will receive Level 3 detention under the 1998 Surface Water Management Manual plus wetpond and sand filter treatment. However, most of the new access road as well as all of the SR 202 improvements will lie below the level of the R/D pond and therefore will be untreated except for passage through a biofiltration swale. The high level of treatment to be accorded the Patterson basin residential flows, which exceeds applicable 1998 SWM standards, is designed to compensate for the approximately 0.86-acre of roadway construction that will lie down-gradient from the R/D facilities. In addition, mitigation for temperature increases in flows discharged to Patterson Creek from stormwater detained onsite will be provided in the form of tree plantings along the borders of the R/D facilities, by means of additional depth in the sand filter, and through oxygenation at the point of discharge. The Applicant's geotechnical consultants do not regard loss of summer base flow to Patterson Creek from the diversion variance discussed below to be a major problem due to the prevalence of till in the upland reaches of the site, which results in relatively rapid runoff and low soil moisture retention.

38. As noted above, the dominance of till soils on the upper reaches of the site may also make problematic the density of septic systems proposed for the site. A related concern is whether the existence of glacial till soils over most of the site will cause septic usage to adversely impact area wells offsite at lower elevations. Technical studies have indicated that most offsite wells are drilled into aquifers lying below the glacial till layer and therefore would not be at risk for contamination. Further, while a few shallow wells exist south of the Treemont site, they appear to be far enough removed from septic drainfields that only a relatively small increase in nitrate and nitrogen levels should be experienced.

39. With respect to the 15-acre Schroeder parcel that lies adjacent to SR 202 and contains the steep slopes that the proposed Southeast 19th Street access road must traverse, under the 1988 regulations in effect at the time of plat application the primary sensitive areas concern was with erosion risks. Ordinance 4365, the County's 1979 Sensitive Areas Ordinance, includes Kitsap series soils as erosion hazard areas and provides authority to condition or deny a subdivision

proposal based on a finding of turbidity and pollution impacts to fish-bearing waters, or the need to protect the public from damage due to erosion.

40. Beginning in 1990 the Schroeder parcel would be subject to regulation pursuant to the new Sensitive Areas Ordinance (Ordinance 9614). As such it would be evaluated for erosion hazards, seismic hazards, steep slopes in excess of 40%, wetland alterations, and as a landslide hazard. As an erosion hazard it would be subject to seasonal development limitations, clearing limitations and erosion control requirements. The steep slopes would be required to be set aside in a sensitive areas tract, subject to an exception for the permitted regrading of slopes originally created as part of a previously legal grading activity. To the extent that the slopes proposed to be altered on the Schroeder parcel were created originally as part of the construction of SR 202, regrading of such slopes is permitted. The SAO would not authorize, however, the filling of the farm pond on the Schroeder parcel.

DRAINAGE AND FLOODING

41. Any discussion of the drainage plans for Treemont is dominated by two considerations. First, a major surface water diversion variance granted to the Applicant on October 5, 1999, allows approximately 103 acres within the plat to be diverted from the Patterson Creek drainage basin to the Snoqualmie River via a tightline slightly more than one mile in length. The second consideration arises from the fears and concerns of residents who live within the Patterson Creek and Snoqualmie River Valleys and anticipate that increased drainage from urban density development at Treemont will exacerbate the flooding of their properties. Two of the most active participants in the public hearing on this proposal were Robert Seana and Erick Haakenson, both of whom own farms located in the floodplain north of the proposed Treemont outfall to the Snoqualmie River. Mr. Seana's property in fact abuts the proposed pipeline easement route across the floodplain which is proposed to be located along the northern boundary of the Tall Chief Golf Course.

42. The essential rationale for the diversion and the tightline is compelling. There are no established drainage channels through the steep slopes on the eastern boundary of the Treemont site, and drainage discharged onto such slopes would inevitably create disastrous consequences to lower lying properties. Thus the need for some form of artificial conveyance of Snoqualmie basin runoff is beyond dispute.

43. There are also sound reasons for diverting flows away from Patterson Creek and into the Snoqualmie River basin. Patterson Creek, with its relatively low flows and flat lower reaches, is sensitive both to increases in runoff volumes as well as to sedimentation and water quality impacts from urban runoff. Because the Snoqualmie River and its contributing watershed are so much larger, they are better able to absorb runoff impacts from Treemont without adverse impacts. Having explored and rejected the possibility of onsite infiltration due to the prevalence of impermeable till soils, it cannot be seriously doubted that the solution proposed by the Applicant and approved within the SWM variance embodies an improvement over the impacts that would result from discharge of site runoff to the predevelopment basins as normally required.

44. By diverting flows to the Snoqualmie basin and treating the remaining Patterson Creek flows to a standard that exceeds 1998 SWM requirements, the Applicant predicts that site drainage impacts to Patterson Creek will actually be lower in the developed state than they are within the existing predevelopment condition. The diversion not only allows peak flow rates from the site to Patterson Creek to decrease from approximately 25 cubic feet per second ("cfs") for the 100-year storm event to 17 cfs, but it also results in an actual decrease in mean annual runoff volumes from 335 to 292-acre feet.

45. Although runoff directed to the Snoqualmie River basin will receive water quality treatment prior to release, no onsite detention of runoff is proposed. This is because the Snoqualmie River is identified within the County's Surface Water Manual as a designated receiving water for the direct discharge of drainage flows. The theory supporting direct discharge of runoff to the Snoqualmie River has two aspects: first, that its flow volumes are so large that additional site-generated volumes will have a minimal effect, and second, that direct discharge to the River of flows from the lower basin will allow them to clear the system before much larger flows from the upper reaches of the watershed have arrived downstream. According to this theory, onsite detention of lower basin flows actually could be counterproductive in that the delay of peak discharges would overlap with upriver peak volumes.

46. Under the terms of the 1998 SWM Manual, direct discharge from the site to the Snoqualmie River is permitted if tightlining the flows is proposed and "the flow path from the project site discharge point to the edge of the 100-year floodplain" is no greater than one-quarter mile in length. While no detailed analysis of the flow path requirement seems to have been performed, the essential requirements of the SWM manual appear to have been met by the Treemont drainage proposal. Although the distance from the plat's Snoqualmie basin water quality pond to the 100-year floodplain edge as traversed by the tightline is nearly a mile, the pipeline route cuts across the slope and does not represent the natural flow path from the site. The distance from the water quality pond downslope directly to the floodplain limit is approximately a quarter mile.

47. As described within the Final EIS,

> "The Snoqualmie River in the vicinity of the proposed stormwater outfall runs through a broad flat valley containing low density rural uses and numerous dairy farms. The Snoqualmie River downstream of RM 33 is described as a slow, deep slough confined within diked banks with heavy mud and silt bottoms. . . .The River in the vicinity of the stormwater outfall is characterized by a long flat glide within a gently curving stretch of river. The stream banks rise steeply from the channel along both sides of the River and are densely vegetated with Himalayan blackberry and reed canary grass. A few young alder and cottonwood are scattered along the banks."

This portion of the Snoqualmie River is characterized by a serpentine meandering pattern within a broad flat floodplain. Mr. Seana's house, for example, lies at one end of an S-curve within the River. Thus, if one were to travel due east from his house one would cross the river three times within a span of about 3,000 feet. Moreover, Mr. Seana's house lies just east of the southern end of Stickney Slough, a remnant river channel feature that demonstrates that the river section

which now curves east of Mr. Seana's residence in the not too distant past followed a channel west of the house location. In view of this low lying remnant channel feature, it is not surprising that Mr. Seana reports that river floodwaters often congregate at the old channel behind his house, a situation which can be exacerbated when Patterson Creek (which enters the river some 2,500 feet upstream of his property) is also at flood stage.

48. Mr. Seana's house, which lies about 500 feet west of the river channel's edge, is not only within the 100-year floodplain but within the floodway as well. Mr. Seana's concern is that the flooding that historically has occurred on his property appears to be increasing in frequency, a trend that appears especially evidenced during the last three years. He and his neighbors postulate that this observed increase in flooding frequency, often occurring during lower rainfall events and when there is no snow pack in the upper watershed, is the consequence of increase urban runoff being directed to the Patterson Creek system. In support of this contention, Mr. Seana's neighbor, Erick Haakenson, submitted a graph tracing the correspondence between flow volumes at Snoqualmie Falls and gauge height readings downstream at Carnation. As described by Mr. Haakenson, since 1997 there has emerged a pattern where the downstream gauge height readings have increased relative to flow volumes over the Falls. Mr. Haakensen argues that this shift suggests an increasing influence on Carnation gauge height readings of downstream flow sources other than upstream snowmelt passing over the Falls.

49. The major problem with Mr. Haakensen's interpretation is simply that the river system is sufficiently complex that a two or three year data set is inadequate to support firm inferences and conclusions. Even assuming that the trend identified by Mr. Haakensen is later found to continue over a statistically significant length of time, one must still account for other inputs into the system before one can conclude that urban runoff increases are the primary culprit. In particular, due to ongoing deposition processes, one would need to assess the effect of channel volume loss on the flooding phenomenon. The County, as well as other jurisdictions around the state, have a historical love-hate relationship with respect to channel dredging and gravel bar removal. The policy preference is to avoid tampering with natural processes, but when accumulated channel deposition results in extreme flooding, this policy undergoes temporary alteration in order to provide relief for distressed floodplain property owners.

50. Beyond the problems attendant to determining causality, there is an important policy question as to whether the burden of identifying and solving a regional problem should be placed upon an individual development applicant. The Snoqualmie River watershed covers more than 600 square miles, and the river itself carries approximately 73,000 cubic feet per second during the 100-year flood event. The current contribution of the undeveloped Treemont site to this volume for the 100-year event is about 27 cfs, an amount that is projected to increase after development another 47 cfs to 74 cfs. The calculated effect of this additional contribution is an increase of $4/1000^{th}$ of a foot to flood heights measured at the Carnation gauge. This is by any standard an infinitesimally small additional contribution.

51. A great weakness of the development permit review process is its inability to deal effectively with cumulative impacts within a context where any individual contribution is too small to justify separate regulatory treatment. In such instances, one can only conclude that such cumulative effects must be regarded as regional in nature and in need of a public solution. If a

comprehensive hydraulic analysis of the Snoqualmie River flood condition is required, it needs to be a publicly funded endeavor and not one that is visited arbitrarily upon whichever permit applicant happens to be standing at the door when the issue is raised.

This conclusion is further underscored by the County's current regulatory stance as manifested in the Surface Water Manual's direct discharge policy. In reviewing the textual discussion for Core Requirement No. 2 within the 1998 SWM Manual, one finds that the tiny calculated flood height increase attributable to Treemont is well below the current regulatory minimum for determining the existence of a severe flooding problem within the 100-year floodplain. Moreover, wherever a receiving water designation has been determined to apply, the Manual deems any increase in a project's contribution to flooding problems to be negligible for regulatory purposes unless it also results in increased flooding outside the 100-year floodplain.

52. Mr. Seana has also attempted to argue that the proximity of the outfall to his property will somehow exacerbate flooding problems locally in a way which substantially exceeds the percentage of Treemont's contribution to overall river volumes. He has presented, however, no technical analysis to support his position. During flood stage conditions the proposed outfall from the Treemont pipe will be effectively in the middle of the river, and common sense suggests that a relatively minute additional quantity discharged at this location will have no discernable local effect.

53. Further issues exist with respect to the pipeline system proposed by the Applicant. Mr. Monahan, a neighborhood resident of long-standing, has questioned whether requiring a pipeline overflow outletting to a potentially erosional ravine was a wise choice. As explained by the Applicant's engineer, he could identify no better place for an overflow mechanism to be sited, but the pipe's oversized capacity at 30% greater than 100-year storm event volumes reduces the risk of actual overflow events occurring to a negligible level.

A second concern regarding the outfall pipe design raised within the County review process was the potential that the outfall culvert to the river might become blocked with sediment. The SWM diversion variance responds to this criticism by requiring the catch basin on the east side of the West Snoqualmie River Road to be outfitted with a low-head neoprene flapgate to prevent high river stages from backflowing into the direct discharge line and depositing sediment. Nonetheless, this flapgate will lie about 50 feet above the river outfall, thus likely requiring periodic maintenance of the lower pipe structure.

54. Other issues have been raised relating to the proposed drainage system. Residents south of the plat site are concerned that uncontrolled runoff from Treemont may cause flooding within the roadside culvert systems in their neighborhood. If anything, however, uncontrolled flows offsite to the south should be reduced after development to the extent that the Treemont drainage system will pick up flows that now trend towards the south and redirect them to the onsite treatment ponds.

There are also unresolved issues with respect to the design of the facilities that will serve the portion of the site continuing to drain to Patterson Creek. In particular, technical review has suggested there may be problems with constructing pond berms on the lacustrine soils within the

Schroeder parcel, and more detail will be required regarding design of the proposed dewatering system within the graded slopes below the Schroeder pond. These matters will need to be addressed at engineering review.

55. Finally, the SWM diversion variance conditionally permits the transfer of flows from 16.5 acres within sub-basins P-7 and P-8 in the northern portion of the site to the Treemont North R/D system. It is our view that this diversion is not advisable due to the fact that such flows eventually will be discharged to the Southeast 8th Street ditch system, which has a history of flooding. In addition, the Treemont North R/D facility has been designed to 1990 SWM standards, which are less stringent than those proposed for the onsite Patterson Creek drainage facility. Superior detention and water quality treatment will be obtained if the P-7 and P-8 sub-basin flows are directed to the treatment facilities within the Schroeder parcel.

ROADS AND TRAFFIC

56. The EIS traffic study done for Treemont by the Transpo Group is probably the weakest link in the chain of technical documents generated for this proposal. It not only contains some fallacious assumptions and important omissions, but also some of its essential premises regarding future traffic infrastructure construction have been overtaken by political events.

    Owing to more than a decade of rapid development, nearly all of the critical intersections serving the Sammamish Plateau are currently operating at unacceptable levels of service. This includes, on the north, the SR 202 corridor from Sahalee Way west to SR 520, and on the south the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection and the nearby access ramps to I-90. Because a forthright discussion of these problems would impede the smooth flow of permit approvals, consultants dealing with Plateau traffic have developed a number of strategies for understating the relevant traffic impacts of their projects. One is to simply ignore those intersections that are not under King County jurisdiction, and a second is to refrain from analyzing fully the effects of regional congestion on specific intersections under review. Thus, in pursuit of the former strategy, the Transpo study contains no meaningful analysis of current congestion at the I-90/Issaquah ramps nor of the SR 202 corridor within Redmond.

57. The three major regional intersections analyzed by Transpo were SR 202/Sahalee Way, Issaquah-Fall City Road/East Lake Sammamish Parkway, and Issaquah-Fall City Road/Issaquah-Pine Lake Road. Within the Draft EIS Addendum issued in March, 1999, the Transpo Group only identified one LOS F existing condition, which was for the PM-peak hour at Issaquah-Fall City Road/East Lake Sammamish Parkway. For all other movements at the three intersections, acceptable levels of service were posited, including AM-peak hour LOS D's at SR 202/Sahalee Way and Issaquah-Fall City Road/East Lake Sammamish Parkway and a breathtaking LOS B-C (with a 14.6 second average vehicle delay) at SR 202/Sahalee Way during the PM-peak hour.

58. To their considerable credit, the Final EIS editors rejected the favorable LOS descriptions for SR 202/Sahalee Way as being unacceptable. The following statement is found at page 2.5-5 of the Final EIS:

> "The intersection of SR 202/Sahalee Way was reported in the EIS Addendum (Table 2.5-1) to operate as LOS D during the AM-peak hour and LOS B-C during PM-peak hour based on existing traffic volumes. Subsequent field observations at the intersection indicate that the intersection operates at LOS F during the AM-peak hour. This poor level of service results from westbound traffic on SR 202 backing up from west of the 204th Place Northeast intersection. This backup on SR 202 inhibits traffic flow through the SR 202/Sahalee Way intersection, resulting in a lower traffic volume through the intersection and, in turn, a better calculated level of service than actually exists.
>
> "During the PM-peak hour, eastbound traffic on SR 202 is also constrained on the two lane section of the roadway west of Sahalee Way. This results in a lower traffic volume at the intersection of SR 202/Sahalee Way. Observations indicate that the LOS B arriving is correct based on the traffic that is actually able to reach the intersection during the peak hour. However, the actual demands would be significantly higher than the traffic counts indicate, since vehicles cannot reach the intersection due to the capacity restriction along SR 202 west of Sahalee Way."

59. In other words, if one takes an isolated look at simply the vehicle counts at a particular intersection subject to regional congestion, there can be the illusion of an acceptable level of service due to the fact that congestion before or after the intersection (or both) depresses the vehicle counts below the intersection's rated capacity. In order to derive a meaningful level of service at such an intersection, it is necessary to calculate the vehicle demand at such intersection assuming free flow conditions. When this is done, the illusion of a satisfactory level of service disappears and the true level of service F condition emerges. For the SR 202/Sahalee Way intersection, traffic to the west is backed up solid during the PM-peak hour from SR 520 east through the East Lake Sammamish Parkway intersection to Sahalee Way. In the AM-peak this sea of motor vehicles extends south of the intersection along Sahalee Way and east along SR 202.

60. That a similar analysis is applicable to the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection during the AM-peak hour is indicated by Transpo within a footnote. Thus while Table 2.5-1 within the Final EIS shows a LOS D during the AM-peak at Issaquah-Fall City Road/East Lake Sammamish Parkway, the footnote states that this level of service "does not account for effect of queues from I-90 ramp intersections; operates at LOS F with I-90 ramp queues included."

61. A second problem emerges with respect to the trip distribution contained in the Transpo report. The traffic study for Treemont was based on a 2003 horizon year for the project. But its analysis of traffic conditions at the south end of the Plateau is predicated upon completion of the new SPAR access road to I-90 and related upgrades to the Sunset Interchange. Since the relevant future conditions analysis was taken from previous traffic studies for the SPAR project that are based on a 2015 buildout timeframe, the Transpo study contains some trip distribution assumptions that may be appropriate for 2015 but do not apply to 2003.

    At the north end of the Plateau within the SR 202 corridor this includes a distribution of 7% of Treemont's westbound traffic north on 236th Avenue Northeast to access the as yet unconstructed

Redmond Ridge UPD project, and on the south a diversion of 5% of project traffic along the Issaquah-Fall City Road to the currently nonexistent Issaquah Highlands project. If 2% of project traffic is assigned to 236th Avenue Northeast for the 2003 horizon year and the remaining 10% of the fictitious distribution reallocated to other routes proportionately, the percentage of project traffic assigned to the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection rises from 38 to 43% and the percentage at SR 202/Sahalee Way goes to 18%. Based on the EIS overall trip generation figures, this results in 60.5 trips being assigned to Issaquah-Fall City Road/East Lake Sammamish Parkway intersection during the AM-peak and 82 trips during the PM-peak. For SR 202/Sahalee Way the revised figures are 26 trips during the AM-peak and 35 trips during the PM-peak hour.

62. The assignment of Treemont traffic among South Plateau roads and intersections is predicted to change dramatically once the SPAR and Sunset Interchange projects are completed. At that time 56 % of the project traffic currently assigned to the Issaquah-Fall City/East Lake Sammamish Parkway intersection becomes diverted to the SPAR connection and the Sunset Interchange. Even though the Issaquah-Fall City Road/East Lake Sammamish Parkway is predicted after SPAR completion to still operate at a level of service F, it is expected that this LOS F will not be as deep as the existing condition. Moreover, after completion of the SPAR connection to I-90, the portion of Treemont traffic assigned to the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection is predicted to fall below 20% of project peak hour traffic, placing it beneath the threshold currently required by KCC 14.80.030 for determination of a significant adverse traffic impact.

63. Even with a corrected distribution, the portion of project traffic assigned to SR 202/Sahalee Way will be about 18% and therefore remains beneath the 20% threshold stated within the Intersection Standards. On the other hand, if based on a 1988 vesting date the old Road Adequacy Standards contained within KCC Chapter 21.49 are applied to the project, the minimum threshold for a direct traffic impact both along the SR 202 corridor from Sahalee Way West and at Issaquah-Fall City Road/East Lake Sammamish Parkway is met under all relevant scenarios. Under the Road Adequacy Standards a direct traffic impact is a project-generated increase in vehicle traffic equal to or exceeding ten peak hour, peak direction trips. At SR 202/Sahalee Way during the AM-peak hour, Treemont will generate 17 peak direction trips under the EIS assignment and 19 trips under the revised 2003 assignment. Peak direction trips during the PM-peak hour would be 20 and 22.5, respectively.

For the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection, the peak direction volumes under the EIS assignment are 42 trips in the AM and for the PM 48 trips. Under the corrected assignment these figures go to 47 and 57, respectively. After completion of the SPAR connection, the EIS assignment at this intersection is 18.5 peak direction trips during the AM hour and 21 trips during the PM peak.

64. Based on the unanimous testimony of area residents, another potential flaw in the EIS trip distribution may be the understatement of peak hour traffic flows through Fall City and along the Fall City-Preston Road to the Preston/I-90 interchange. The EIS distribution estimates 15% of Treemont traffic will head east on SR 202 toward Fall City, but it appears to assign all westbound project traffic directed toward the I-90 corridor to the South Plateau intersections. The testimony of area residents who commute to Seattle was that they abandoned the SR 202/SR

520 route about five years ago in favor of I-90 via the South Plateau, and now are forsaking the South Plateau approach in favor of about an additional ten-mile detour through Preston. If such is the case, the Intersection Standards 20% threshold may be met at the SR 202 intersection with SR 203 and the Preston-Fall City Road, as well as the I-90 interchange at Preston, requiring the analysis of impacts at those locations. It is reasonable to suppose, however, that completion of the SPAR connection should make the South Plateau route again more attractive and provide at least short term relief to Fall City.

65. It is evident that the projections within the Treemont EIS of acceptable future levels of service within the regional arterial system serving both this project and the Sammamish Plateau generally are heavily dependant upon the construction of certain key regional transportation projects. Thus, the Treemont applicant has agreed to pay King County $1,433 per lot as a mitigation payment toward its SPAR CIPs and the Washington Department of Transportation a further $1,152 per lot toward its Sunset Interchange and SR 202 lane widening projects. Mitigation payments to support Sunset Interchange construction are predicated on the theory that its development will provide relief to the existing I-90 ramps within Issaquah currently operating at LOS F and otherwise subject to impact mitigation for Treemont traffic. WSDOT's proposed project on SR 202 west of Sahalee Way is to widen the roadway to five lanes, and Treemont's payment of a pro rata share to that project is predicated upon mitigation of safety impacts.

66. Although funding for County construction of the SPAR connection is unaffected, the passage in November 1999 of Initiative 695 casts a serious cloud over the viability of the WSDOT SR 202 lane widening project and the State's contribution to construction of the Sunset Interchange. Both State projects were slated for funding out of Referendum 49 monies, and the passage of I-695 has effectively eliminated this source. While the Applicant professes optimism that the State Legislature may restore some of these defunded transportation projects, the only realistic assessment for the SR 202 lane widening project is that it is currently dead. At best there is some hope that the Legislature may provide sufficient funds to complete its environmental assessment and design phases, but there is no serious prospect of right of way acquisition or construction funds for this project in the near future.

67. There may be brighter prospects for obtaining additional funding to finance the State's share of the Sunset Interchange project. This is because the project is much further along, and as a result greater momentum exists supporting its completion. The SPAR connection remains fully funded, and other contributions to the Sunset Interchange include nearly $20,000,000 in federal money, $5,000,000 in state gas tax funds, $9,000,000 from Sound Transit and $5,700,000 from the Applicant Port Blakely. As the developer of Issaquah Highlands, Port Blakely has a huge stake in the timely completion of the SPAR connections and Sunset Interchange. It is paying the major share of the cost of constructing the south SPAR as well as contributing significantly to the Sunset Interchange project.

68. Nonetheless, the shortfall in the State's contribution to the Sunset Interchange project resulting from the passage of I-695 is estimated to be somewhere in the range of $24,000,000 to $30,000,000. Moreover, WSDOT's position is that the currently committed funding will be about $10,000,000 short of the amount needed to construct a scaled down Phase I interchange. Accordingly, unless the State Legislature immediately steps into the breach, there is a strong

likelihood that the interchange project will be delayed, perhaps for a significant period of time. Based on these circumstances, completion of the Sunset Interchange cannot presently be regarded as a mitigation project possessing a firm funding commitment. If the Sunset Interchange and SPAR projects are not completed by the 2003 horizon year, Treemont's impacts at the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection will exceed Intersection Standards thresholds and contribute to the worsening of an LOS F condition that is already bad beyond the capacity for accurate calculation. Based on the corrected trip assignment and assuming indefinite delay of funding commitments for the Sunset Interchange, the largest number of lots that could be developed within Treemont without exceeding Intersection Standard thresholds at Issaquah-Fall City Road/East Lake Sammamish Parkway would be 71 lots.

69. In addition to the regional problems discussed above, the Treemont proposal raises some important issues regarding impacts to the road system in the immediate vicinity of the plat. Many of these issues result from the limitations that constrain the use of the existing roadway for Southeast 8th Street, approximately 3,500 feet north of the proposed new access road, as the primary entrance to the plat. The steep grade and short landing that characterize Southeast 8th Street have already been described, as well as the County's 100-lot policy limiting the number of residential lots that can be platted off a single access road.

70. Despite these limitations, the 47-lot option discussed within the EIS retains Southeast 8th Street as the potential sole access to the plat, and all the larger lot scenarios under discussion have contemplated at least temporary reliance on Southeast 8th Street access during early plat phases. Consequently, consideration of the potential need to mitigate adverse traffic impacts on Southeast 8th Street at and above its intersection with SR 202 have remained an ongoing element of the review discussion.

71. Because SR 202 is a state road, much of that discussion has focused on WSDOT's interest in seeing SR 202 widened at the Southeast 8th Street intersection for the construction of left and right turn channels. While the level of service at the intersection is projected to remain acceptable under all scenarios, WSDOT has been reluctant to accept the addition of new traffic to the intersection from Treemont without the construction of the turn lane channels. In particular, WSDOT is convinced that additional southbound left turns from the two-lane highway would precipitate a safety hazard in the form of increased potential for rear-end accidents and contends that warrants for the construction of the left turn lane are currently met.

72. The Applicant views plat use of Southeast 8th Street to be a fleeting phenomenon associated with early lot development phases, which impacts will largely disappear once the new plat access road is constructed. After much horsetrading, the current agreement is that WSDOT will allow up to 20 lots to be platted within Treemont before construction of the Southeast 19th Street access road without requiring the left turn channel to Southeast 8th Street to be built. It is estimated that these 20 lots would result in the addition of five PM left turns on SR 202 southbound onto Southeast 8th Street during the peak hour.

While this agreement solves the immediate problem, one cannot avoid speculating that the fact that the SR 202 channelization improvements at Southeast 8th Street are a borderline requirement under existing conditions means that such improvements will inevitably be constructed in the

near future even without impacts from Treemont. If so, the potentially severe erosion and sedimentation impacts previously discussed with respect to the construction of the new Southeast 19th Street access could be augmented in relatively short order with similar impacts about one-half mile north at the Southeast 8th Street intersection.

73. A further existing problem at the Southeast 8th Street is the difficulty of making left turns during the morning rush hour onto SR 202. Since morning traffic oriented toward the I-90 corridor via Duthie Hill Road will make a left turn onto SR 202 from either Southeast 8th Street or Southeast 19th Street, in the absence of a signal such turning vehicles are required to cut across the heavy AM traffic flow along SR 202 headed west into Redmond. Current Southeast 8th Street residents were adamant in their testimony that under existing conditions this left turn maneuver requires a long wait and a willingness to risk taking advantage of the smallest window of opportunity.

74. The Applicant's traffic engineer responded that once a new signal is constructed at SR 202 and Southeast 292nd Street, such signal will create left turning opportunities by platooning traffic along SR 202 approaching from the east. We question, however, whether this is a viable hypothesis. Westbound traffic on SR 202 that will be stopped by the new signal will simply be replaced by left turning traffic off Duthie Hill. Being a "T" intersection, this left turning traffic from Duthie Hill will constitute a constant flow during the green light phase for Southeast 292nd Street. Thus, the platooning effect of the signal will be minimal, only occurring briefly at the point of signal change.

75. Another shortcoming of the EIS traffic study is its failure to analyze Southeast 19th Street as a potential attraction to cut-through traffic. In addition to the 17 lots under development within Treemont North, there are at least another 70 residential lots along the 290th and 292nd Avenue Southeast spines that may find Southeast 19th Street to be a convenient access for traffic headed either east to Fall City or to the I-90 corridor via Duthie Hill Road. Southeast 19th Street will provide to such traffic a shorter and safer access to SR 202 eastbound than does Southeast 8th Street in its current condition. Since arterial spacing requirements make Southeast 19th Street/SR 202 an unlikely location for future signalization, the impacts of this cut-through traffic need to be analyzed within the context of whether 294th Place Southeast ought to be upgraded from a sub-collector to a neighborhood collector design.

76. Although mentioned briefly, the Final EIS gives short shrift to the potential construction impacts of Treemont with respect to the excavation and removal of 113,000 cubic yards for the construction of the Southeast 19th Street entrance road and SR 202 channelization. This excavation work will require more than 5,500 dump truck trips each way in and out of the site, which if performed within a single construction season while avoiding peak hours on SR 202, would average about 20 trips an hour based on a five-day work week.

77. The Final EIS has this to say about construction traffic:

> "Development of the project would result in construction traffic, including trucks and workers. The impacts of these trips would likely be lower than the traffic generated at full build-out of the project. Truck trips would occur throughout the day and would generally not have a significant impact on peak hour traffic operations at intersections or

> roadways near the site. Construction of the new access road intersection under the amended proposed action may require some closure of one or both lanes of SR 202 for a short duration. Possible closures would be anticipated during construction of the left and right turn lanes. Construction traffic may impact Southeast 8th Street between SR 202 and Treemont North."

This summation seems to understate the impacts of project construction traffic.

78. Two remaining road facility issues involve staff recommendations for developer financed improvements along the Duthie Hill Road corridor. The first concerns the necessity and timing of the proposed signal to be installed at the intersection of SR 202 and 292nd Avenue Southeast. Two hundred ninety second (292nd) Avenue Southeast is an approximately 1,000-foot long extension of Duthie Hill Road where it turns north to intersect the state highway. Both staff and WSDOT contend that this intersection is now at or near level of service F and installation of the signal by Port Blakely should be required at an early stage of plat development. Fifty-five percent of Treemont traffic is projected to use Duthie Hill Road, which in the horizon year will constitute more than 10% of the total traffic through the intersection. More critically, the level of service problems are attributable primarily to the left turn movements from Duthie Hill Road onto SR 202 westbound during PM-peak hour. During the PM-peak Treemont will contribute 69 out of 306 of these left turn movements, or 22.5% of the total.

Based on this high level of contribution to the critical turning movement, KCC 14.80.040.B provides authority to require the entire cost of the improvement to be placed on the Applicant. By the end of the hearing the Applicant, after much discussion, had agreed to funding the early construction of the SR 202/292nd Avenue Southeast signal.

79. Further west and uphill from the SR202/292nd Avenue Southeast intersection, Duthie Hill Road is a narrow, steep two-lane road with almost no shoulders. At issue is an approximately 1,800-foot stretch of Duthie Hill Road lying parallel to Canyon Creek where staff has requested a condition requiring the Applicant to construct a narrow paved shoulder. The plat of Aldarra, which is also within the process of preliminary review, lies west and upslope of this 1,800-foot section and is expected to provide shoulder improvements as part of its frontage requirements. The Aldarra plat conditions also place upon that development a concurrent responsibility for the 1,800-foot section of roadway shoulder under review.

80. The Applicant has challenged the legality of imposing a shoulder improvement requirement for Duthie Hill Road as a condition of Treemont approval. The argument is that there is no evidence that Treemont residents will use this shoulder for walking or bicycling, and therefore the plat will not impact the problem. Staff's response is that Treemont will contribute a large amount of new traffic to this roadway and thus greatly exacerbate the risk to pedestrians and bikers generally.

81. A study performed for the Aldarra hearing in August, 1999, demonstrates that there currently is a small amount of recreational use of Duthie Hill Road in this vicinity. Weekday recreational use was almost nonexistent, while weekend use by pedestrians was nominal. Only weekend bicycle use analyzed during the August study seemed to present numbers worthy of recognition, and of those users the great majority were headed in the downhill direction, a fact which limits the

potential usefulness of an uphill lane shoulder.

82. The staff's position is supported more by the prospect of future recreational use of Duthie Hill Road than by current levels of activity. The roadway has been recently redesignated a principal arterial, bicycle lane development is included in the County's nonmotorized transportation plan, burgeoning residential development within the Trossachs and Aldarra plats is on the horizon, and development of the County's new Section 36 Park further uphill is likely to become a regional recreational attraction. Staff argues that under such circumstances a road improvement is warranted under authority of KCRS 1.03A based on an impact to the safety of a serving road to the Treemont plat.

83. As argued by the Applicant's attorney, proposed plat conditions are subject to constitutional requirements for nexus and for rough proportionality between the impact created by the new development and the mitigation required. Without belaboring the matter, it is our view that while the nexus requirement is met, the rough proportionality standard is not. There is no question that the large traffic volumes contributed by Treemont to Duthie Hill Road will adversely affect pedestrian and bicycle safety, but we agree with the Applicant's contention that the rough proportionality requirement needs to take into account the Applicant's sole responsibility to construct the new traffic signal at SR 202/Duthie Hill Road. This will also contribute to safety for walkers and cyclists using Duthie Hill Road, and since Treemont is paying 100% of the signal cost, it will have contributed its fair share toward overall Duthie Hill Road mitigations in sufficient amount to exempt it from an additional burden to construct 1,800 feet of shoulder.

HISTORIC PRESERVATION

84. As documented within the Final EIS, the Treemont properties, in particular the 15-acre Schroeder parcel, contain historical and possibly archeological resources that are subject to preservation policies. The Treemont site sits on a knoll overlooking the confluence of Patterson Creek and the Snoqualmie River. As such it may have been the location of summer encampments of the Snoqualmie Tribe, whose principal village lay some two and one-half miles away at Fall City. In addition, members of the Matt Family who operated a dairy farm on the proposed access parcel for nearly 50 years occasionally found prehistoric artifacts on the site. Accordingly, the staff has proposed a condition for implementing an archeological monitoring program and discovery plan.

85. A historical resource assessment performed for the Matt Farm buildings determined that the original house and the barn with its two attached wooden silos were historically significant and appeared to meet the criteria for listing on the National Register of Historic Places. They are therefore subject to the heritage sites policies contained in the 1985 Comprehensive Plan at Policies HS-101 through 104 as well as, under SEPA authority, Snoqualmie Community Plan Policies SQP 118 and 119. These policies support the preservation, restoration and adaptive reuse of historic sites in the Snoqualmie Valley Community Planning area.

Preservation of the Matt Farm buildings in their current locations will only be feasible under the 47-lot development option. All other options require the construction of the new access road and

the resultant removal of the Matt Farms buildings. As mitigation, the Applicant has offered to

assist finding nearby sites for the relocation of the three significant buildings, including the placement of advertisements and subsidizing the costs of demolition, removal and relocation. A condition outlining these procedures has been added to the recommendation.

VISUAL IMPACTS

86. The section of the Draft EIS dealing with aesthetics contains a view analysis describing the impacts of the Treemont subdivision on the neighborhood visual environment. The DEIS identifies the site's elevated location *vis-a-vis* surrounding properties as an unusual feature that increases the plat's potential for creating visual impacts:

> "The subject property is a heavily wooded knoll, with trees averaging 50 to 60 feet in height. The site rises above the surrounding pasture and agricultural land, which is flat or gently rolling. It is part of a larger, north-south trending ridge, which is visible for several miles to the east and west. Because of the topography, the site is visible from vantage points such as Redmond-Fall City Road (SR 202) to the west and south, Duthie Hill Road/Southeast 27th Street to the west, and SR 203 to the east.
>
> "Surrounding the project site are hilly, wooded areas, riparian areas along the streams, and flat pastures and agricultural lands. Lakes and streams dot the landscape....The Snoqualmie River is located about one-half mile east of the project site. The Mt. Baker-Snoqualmie National Forest is located east of the site and provides a backdrop of forested hillsides, including Mt. Si. These landscape features are visible to varying degrees from different locations within the project site. The heavily wooded environment of the site, however, limits views of surrounding areas.
>
> "...At the project site, the steep topography, which forms a knoll, contrasts with the flatness of the immediately surrounding area. This contrast and topography has two primary effects on views of the site.
>
> "The farther one gets from the project site, the more visible the knoll becomes....Because the site becomes more visible with distance, construction or clearing on the site would be more noticeable in surrounding areas than it would be if the site were flat.
> "The increased visibility of the site with distance is offset, however, by the decreased visibility of most individual landscape elements...."

87. The DEIS contains a view analysis of the Treemont site from three locations identified on SR 202, SR 203 and Duthie Hill Road. The analysis appears to be a well-executed exercise, with the exception perhaps that it probably underestimates the amount of clearing that will occur on Treemont lots for view enhancement. While the plat developer itself may limit the amount of site clearing performed prior to final approval, it is a certainty that these very expensive lots will be marketed for their view potential and that ultimate lot purchasers will seek to maximize views on their lots. Based on the current design, it seems likely that the outer rim of lots comprising numbers 44 through 71 will undergo clearing to open up territorial views of the valley floor and

the mountains beyond. These lots will be perched on the hillside about 300 feet above the valley floor. After clearing for view enhancement, these lots will be conspicuously visible from rural and agricultural properties to the south and east.

The DEIS identifies the visual effects of Treemont as a significant, unavoidable adverse impact, as follows:

> "The overall character of the project site would be altered from an undeveloped, wooded environment to a single family residential development, and light sources within the project site would be added. This change would permanently impact view of the site for residents in the surrounding area."

LAND USE

88. The September, 1999, Final EIS contains a new discussion of the land use impacts of the Treemont proposal that constitutes a substantial revision of the conclusions reached within the 1994 Draft EIS. Based on a review of the plans and policies in effect in 1994 when the DEIS was issued, the Final EIS concluded that the Treemont proposal would have a significant unavoidable adverse impact to the land use element of the environment, as follows:

> "The amended Proposed Action and Alternative 2 would have significant adverse impacts to the rural character of the area. If the proposed amended plat is approved in accordance with the recognized "G" zoning this impact would be unavoidable. There is no mitigation identified that can offset impacts to the designated Rural Area by this proposed low-density urban residential development. The amended proposal and Alternative 2 are both inconsistent with the rural character policy established for this area....The Final EIS for the SVCP also identified the vested "G" zoning as an impact to the rural area and the mitigation provided with the application of the Rural zoning."

89. The Final EIS discussion notes that "this "rural character" impact from development of a low-density urban plat in the rural residential zoned area is the key factor in determining a finding of significance under land use." Further, it appears that much of the impact derives simply from the fact that the 1988 G zoning at one unit per acre permits development at a much higher density than that authorized beginning in 1989 with the adoption of the Snoqualmie Valley Community Plan and its zoning:

> "The density of a project directly relates to the loss of natural features through increased development intensity which results in more site grading and clearing, loss of wildlife habitat, increased traffic and drainage from more impervious areas. These visual factors play a significant role in defining the rural character and lifestyle of an area."

90. While it is axiomatic that development at one dwelling unit per acre will have overall about five times more impact than development at one unit per five acres, any discussion of the significance of this fact must also take into account the state's vesting policy. Certainly, for purposes of evaluating the legal basis for a possible denial of a project under SEPA authority, something more is required than a simple inventory of those impacts that flow normally and inevitably from

the higher density that the vesting policy has authorized. For land use impacts attributable to a higher vested density to be capable of recognition on a decisional level, there needs to be evidence that these higher impacts, within the particular rural context under review, will have a greater adverse effect than that which can be attributed to the increased density alone. Otherwise, as argued by the Applicant's attorney, SEPA review is at risk of merely becoming a subterfuge for a backdoor attack on the state's vesting policy.

91. Since the passage of the Growth Management Act, the distinction between urban and rural lands has emerged as a stark decisional criterion. Within previous policy documents, such as the 1985 County Comprehensive Plan, these lines were less severely drawn. Thus, the 1985 Plan describes not only urban areas and rural areas, but also transitional areas and resource lands, with further refinements including rural activity centers, rural neighborhood centers and the like.

92. The passage of the GMA has also required a much more detailed search for the definitive elements of rural character. The current text for RCW 36.70A.030(14) defines "rural character" as referring to patterns of land use and development:

> "(a) In which open space, the natural landscape, and vegetation predominate over the built environment;
>
> (b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural area;
>
> (c) That provide visual landscapes that are traditionally found in rural areas and communities;
>
> (d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
>
> (e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
>
> (f) That generally do not require the extension of urban governmental services; and
>
> (g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas."

93. Taking into account the GMA definition above, our review of the record suggests that the Treemont proposal at 194 lots would have the following adverse impacts on the rural character of the area in excess of those simply attributable to an increase in density:

A. Visual impacts due to the plat's location on an elevated knoll, inevitable lot clearing to enhance view impacts of surrounding rural amenities, and from the requirement to cut a new access road through the steep slopes above SR 202 and Patterson Creek.

B. Infrastructure impacts and attendant sensitive areas impacts, owing to the fact that the new access road is required for urban density development but not for the rural one-unit per five-acre option.

C. Rural lifestyle impacts, to the extent that historic farm structures will be required to be removed for the development of a new access road.

D. Impacts to traditional rural lifestyles and the rural-based economy derived from the fact that Treemont will continue the conversion of rural properties into upscale suburban estates. Traditional rural lifestyles and rural-based economic activity flourish lower on the social and income scale, and their continued viability is threatened by encroaching gentrification.

E. Traffic impacts in the event that the Sunset Interchange facilities are delayed and commuter traffic from Treemont opts to avoid Sammamish Plateau congestion by diverting through Fall City and Preston.

94. Of the impacts to rural character listed above, some are at least theoretically subject to partial mitigation. Visual impacts could be reduced by imposing covenants against clearing on the individual Treemont lots, but such covenants are difficult to enforce and more likely to result in after-the-fact punishment for unauthorized tree-cutting rather than actual prevention of clearing. With respect to the new access road, if construction phase TESC measures work as designed, catastrophic erosion and sedimentation impacts to Patterson Creek can be prevented, but substantial short-term sedimentation will necessarily occur, and its visual impacts will be unavoidable. Similarly, relocation of historic structures from the Schroeder parcel can provide for their physical preservation, but replication of an authentic rural setting may be less easily achieved.

Adverse impacts to traditional rural lifestyles and economic activities cannot be mitigated without altering the essential purpose of the Treemont development, which is to appeal to an upscale residential market, and so they must be regarded as unavoidable.

In like manner, while traffic impacts to Fall City and Preston perhaps can be better managed through mitigation strategies, the essential impact to rural character inheres in the traffic volumes themselves and can only be mitigated by eliminating Treemont lots.

SHORELINE PERMITS

95. Of the three shoreline permits requested by the Applicant, two of them are within the shoreline environment for Patterson Creek as recently documented by the State Department of Ecology. At the time of the adoption of the King County Master Program, Patterson Creek had not been identified as having adequate flow rate to qualify for shoreline management jurisdiction above its confluence with Canyon Creek. Although a question has been raised as to whether the recent DOE determinations are applicable to this property without further enabling legislation, the applications have not been withdrawn and will be regarded as active and valid.

The SR 202 roadway improvements are barely within Patterson Creek shoreline jurisdiction along their westernmost extension. Principal impacts within shoreline jurisdiction at this location will be alteration of slopes in excess of 40% and the partial filling of a Class 2 wetland along the eastern edge of the SR 202 right of way.

96. While the sensitive areas regulations applicable to the road improvement shoreline permit when the application was filed in 1998 would prohibit alteration of a natural 40% slope, it seems clear that the portion of the slope within shoreline jurisdiction was created legally by the state when it constructed the highway. Under current sensitive areas regulations a legally created artificial slope is permitted to be reconfigured.

The filling of the Class 2 wetland within the SR 202 right of way is somewhat more problematic. Although degraded, it is a spring-fed feature approximately 7/10th of an acre in size, of which the Applicant proposes to fill slightly more than 2/10th of an acre. Our view is that this activity should appropriately be regarded as a wetland road crossing subject to the provisions of KCC 21A.24.330.N, which crossing is warranted in the absence of a practical alternative access option.

97. As noted previously, the remaining two shoreline permits are entirely off-site and unarguably subject to regulations in effect at the time of application. KCC 21A.24.370.D allows utility development in stream buffers, and subsection G allows underground utility crossings to be bored beneath stream beds so long as a proper depth is maintained.

98. The final shoreline permit relates to the proposed drainage bypass tightline and outfall to the Snoqualmie River. In addition to the outfall, about 1,340 feet of pipe will cross within shoreline jurisdiction, passing along the outer edge of approximately 1,350 feet of wetland buffer. KCC 21A.24.320.H.4 allows drainage pipes to be placed within wetland buffers if no practicable alternative exists, wetland functions are maintained and mitigation is provided.

CONCLUSIONS:

1. The determination by DDES staff (then the Building and Land Services Division) that on December 30, 1988, Port Blakely Tree Farms submitted a complete application for subdivision of the 239 acres within the plat original boundaries is supported by the record. At that time the County had not yet adopted specific requirements defining what constitutes a complete application. The 1988 plat application was consistent with the County's submission requirements as they then existed, and the acknowledged need for further water and septic approvals did not raise exceptional issues. Although over the past 11 years the plat application has been substantially reconfigured, these changes do not constitute a revised application requiring a new vesting date.

2. The three shoreline permit applications submitted by the Applicant are vested to their 1998 application date. The Schroeder parcel purchased by the Applicant in 1992 in response to a staff

insistence on provision of a second access to the plat is vested to the 1988 application date with respect to proposed road development lying outside of shoreline jurisdiction, to the 1998 shoreline permit application date for those portions of the property within shoreline jurisdiction and proposed for road development, and is for all other purposes subject to current regulations. The County's authority under SEPA to mitigate or deny the plat application based on its significant adverse environmental impacts is vested to August 9, 1994, the date of issuance of the draft environmental impact statement. The County's adopted substantive SEPA authority as of that date was described in Ordinance 9142 at Section 1.B. This authority includes all later amendments to the policies and regulations listed therein adopted prior to the 1994 DEIS issuance date, except where Ordinance 9142 affirmatively limits the regulatory reference to a specific version of a document. In many substantive areas the Applicant has agreed to comply with later adopted County standards, and the Applicant's stipulations to such effect are recited in Exhibit 58.

3. The most serious environmental consequence resulting from the Applicant's intention to plat its property at the urban density authorized in 1988 rather than the rural five-acre density now required relates to the need to construct a new access road to the plat from SR 202 across steep slopes on the Schroeder parcel. Even with state of the art erosional control practices, due to the steepness of the slopes, the huge amount of excavation required, the highly erosional lucustrine soils, and the site's proximity to Patterson Creek, erosion and sedimentation impacts from road construction are inevitable. More critically, if an exceptional storm event occurs during the construction season when the Schroeder parcel has been opened up for road construction, potentially catastrophic impacts to Patterson Creek and its salmonid resources could occur. Looking at this new access road proposal outside of its historical context, it is not hard to conclude that this may not be a risk worth taking.

4. But the problem is precisely the historical context. Development of a new road through the Schroeder parcel has been part of the application since 1992 when County staff concluded that the Applicant needed to provide a second access to the plat. In response to staff's position, the Applicant purchased the Schroeder parcel in 1992, performed elaborate geotechnical studies and extensive design work, modified its proposal to limit flows into the Patterson Creek drainage, offered to provide remaining flows with a high level of water quality treatment, and proposed a conceptually feasible temporary erosion control plan to deal with road construction impacts. The overall situation was well-summarized by Steve Foley of the Water and Land Resources Division within a terse February 2, 1999, e-mail to DDES: "A scary site, but it looks like they're going to great lengths to control sediment."

   In short, the fact that this new access road proposal is the offspring of DDES staff review, combined with the major commitment in resources and time that the Applicant has put into trying to make this idea work, lends not only a momentum to the new access approval process but also raises a question of fairness regarding a possible decision by the County at this late date that indeed the new road is not acceptable. In view of the foregoing, we conclude somewhat reluctantly that the new Southeast 19th Street access road proposed by the Applicant can only be regarded as a bad idea whose time has finally come.

5. Turning to drainage issues generally, it appears beyond argument that the major diversion

variance granted to the Applicant to transfer flows from the Patterson Creek basin to the Snoqualmie River and discharge them via a lengthy tightline will pose clear benefits for the Patterson Creek system. Once Treemont is constructed, the diversion will moderate flooding and water quality impacts within Patterson Creek by transferring such impacts to the much larger Snoqualmie River where they can be more easily absorbed. While the existing flooding conditions in the Snoqualmie Valley east of the Treemont site are serious and deserving of public attention, they are issues of regional public policy the solution of which will require a commitment of public funds and appropriate legislative action. The nexus between these regional flooding problems and the miniscule contribution thereto from the Treemont project is inadequate to support placing a regulatory burden on this Applicant to rectify or mitigate the problem, let alone justify the extreme measure of preliminary plat denial. The contribution of Treemont to regional flooding problems within the Snoqualmie basin will be both minimal in absolute terms as well below the thresholds for regulatory control provided by currently adopted County policies and regulations.

6. The recent passage of Initiative 695 calls into question whether this and every other residential development project proposed for the eastern part of the County can adequately mitigate traffic impacts. Lane widening improvements for the SR 202 corridor, currently choked beyond measurement with traffic in the AM and PM rush hours, will certainly be deferred until major new funding sources are identified. The prospects for replacing the State's share of funding for the Sunset Interchange at I-90 are somewhat better, if only because the process is further along and more momentum exists for its timely completion. Port Blakely can be expected to play a significant role in this outcome, because its Grand Ridge project near Issaquah is already a major contributor to both SPAR projects and the Sunset Interchange. As a result, the Applicant has a compelling interest in keeping this regional project moving forward.

7. Nonetheless, the time has arrived for the County to take a skeptical view of unsubstantiated, rosy predictions that new funding for regional transportation improvements will be readily forthcoming. Until new funding is firmly committed for the construction of road projects jeopardized by the passage of I-695, the only rational premise is that such projects will be indefinitely delayed. Accordingly, at this point in time their completion cannot be assumed as the basis for mitigation measures for Treemont or any other pending project application. This means that a mechanism must be implemented to limit or defer new traffic impacts in the East County area until new funding has been committed that puts needed regional transportation improvements back on track.

8. Based on the County's current Intersection Standards, reduction of Treemont traffic impacts to the point where they fall below the 30 peak-hour trips/20% of project traffic threshold is governed by the traffic volumes predicted for the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection. In order to avoid significant adverse traffic impacts at this location, Treemont development must be limited to 71 lots if the Sunset Interchange project is not subject to timely completion.

9. There would appear to be three strategies available to the County to assure that Treemont traffic impacts do not create an adverse impact in the absence of the timely completion of the Sunset Interchange. One would to be simply deny the application at 194 lots and remand it for redesign

at 71 lots consistent with its impact generation potential. A second strategy could be to approve the plat as proposed, subject to a requirement to redesign to 71 lots if secure funding is not committed within a 12 to 18 month timeframe. Finally, the Applicant could be allowed to construct and finally plat 194 lots as proposed, subject to a condition requiring a covenant to be placed on the plat limiting residential development to 71 lots until such time as a firm funding commitment has been made for construction of the Sunset Interchange.

10. Our recommendation is for the third option, to allow the plat to be constructed as proposed subject to a condition requiring a covenant prohibiting development of more than 71 lots until adequate transportation facilities can be provided. The essential rationale for this position is Port Blakely's large stake in the Sunset Interchange construction process and the resultant likelihood that some way will be found to fund the State's share of the project. While unconditional approval of 194 lots is not warranted by the facts, a permanent limitation on plat development at 71 lots is probably too harsh an outcome in light of the probability that funding for future transportation upgrades within the I-90 corridor will eventually be identified..

11. As described within the findings, the Final EIS issued for this project concluded that the 194-lot proposal would have unmitigated significant adverse environmental impacts in the area of rural character. Our previous discussion has noted that, in view of the Applicant's vested rights to the one-acre zoning in effect in 1988, the portion of the rural character impact that is subject to legal recognition within the permit review process is that quantity which exceeds the level simply attributable to the higher density development authorized by the vesting policy. According to our analysis, these exceptional impacts consist primarily of the visual effects of the development on surrounding properties due to its topographical elevation, inevitable lot clearing for view enhancement, and the construction of a major new access road that would not be required if the property were developed at rural densities. Finally, the upscale nature of the Treemont development will promote the displacement of rural lifestyles and traditional economic activities in a manner that exceeds the effects of a mere density increase.

    While these impacts are significantly adverse and worthy of serious concern, our recommendation is that the preliminary plat application does not require denial on their basis provided that residential development in excess of 71 lots is deferred until the actual construction of needed I-90 improvements in the manner described above.

12. The Applicant's three shoreline substantial development permit applications propose development that is permitted within the Conservancy Shoreline Environment and can be effected consistent with shoreline and sensitive areas regulations as such apply to properties lying within shoreline jurisdiction.

13. If approved subject to the conditions recommended below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.

14. The conditions of approval recommended herein, including dedications and easements, will provide improvements which promote legitimate public purposes; are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat

reasonably

compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

RECOMMENDATION TO THE KING COUNTY COUNCIL:

The proposed subdivision of Treemont, as revised and received October 11, 1999, should be GRANTED preliminary approval, subject to the following conditions for final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code, subject to the development rights of the Applicant on the property described in the preliminary plat application based on the vesting date of December 30, 1998, as modified by the stipulations contained in Exhibit 58. Road development on the Schroeder parcel shall also be vested to the development regulations in effect at the time of preliminary plat approval, except for those portions of the site lying within shoreline jurisdiction.

2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.

3. All lots shall meet the minimum dimensional requirements of the General zone classification, as set forth in KCC Title 21, and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat that do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.

4. The applicant must obtain final approval from the King County Health Department.

5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).

6. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.

7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

    a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction, provided that the Applicant may, pursuant to current County practice

and code requirements, obtain an early start clearing and grading permit, following the approval of a TESC plan and preliminary review of relevant drainage and roadway plans.

b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.

c. The following note shall be shown on the final recorded plat:

" Single family residences constructed on lots created by this subdivision must provide stub-out connections according to the details shown on the approved plans. All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

d. Drainage plans shall be designed in accordance with the approved variance application No. L98V0041. Off-site drainage easements for stormwater conveyance shall be submitted to King County prior to engineering plan approval. All runoff control facilities shall be located in a separate tract and dedicated to King County.

e. Stormwater facilities discharging to the Patterson Creek basin shall be designed using the KCRTS level 3-flow control standard. The final drainage plans and analysis shall also comply with the requirements for stormwater bypass shown on page 1-36 in the Drainage Manual. The outlet control structure from the detention ponds shall be designed with 100-year capacity to prevent spillway overflow onto erodable slopes.

f. Water quality facilities located within the Patterson Creek basin (Tracts Z and R) shall be designed using the wet pond and sand filter design criteria proposed by the applicant in the Preliminary Hydrologic and Downstream Analysis dated March 1998. The proposed sand filter depths shall be increased over current County standards to improve treatment levels. The water quality facility draining to the Snoqualmie Basin (Tract I), shall be designed using standards for a wet pond from the basic water quality menu in the 1998 Drainage Manual

h. Geotechnical reports shall be submitted with the final engineering plans to address requirements for the design and construction of stormwater ponds.

8. A permit from the Washington State Department of Fish and Wildlife may be required for the construction of roads and drainage facilities located within or near designated waters of the State. The applicant shall contact the applicable state agency and submit any required permits to King County prior to engineering plan approval. The applicant shall also contact the Washington State

Department of Ecology and the U.S. Army Corps of Engineers to determine if any permits are required for site construction and discharge of stormwater.

9. Conditions 7 through 14 of the shoreline permits approved concurrently herewith shall also be conditions of final plat approval.

10. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS), including the following requirements:

    a. During preliminary review the applicant submitted a road variance application (File No. L98V0040), regarding road gradient, cul-de-sac length, and stopping sight distance. The final road improvements shall comply with the variance decision.

    b. Unless otherwise required by the supplemental traffic study, roads shall be improved using rural design standards in accordance with the street classifications shown on the preliminary plat map. Prior to or concurrent with plat recording, public road right-of-way and slope easements shall be dedicated to King County for the off-site portion of SE 19th Street.

    c. The final engineering plans shall demonstrate that driveways and street intersections along SE 19th Street meet sight distance requirements.

    d. Prior to any road construction or drainage improvements along State Route 202, the applicant shall obtain approval from the Washington State Dept. of Transportation. Before commencement of any clearing or excavation for construction of the new site access road or for SR 202 lane widening, a construction traffic management program shall be submitted to and approved by DDES and King County Department of Transportation and necessary approvals therefor obtained from WSDOT.

        This traffic management program shall include, but not be limited to, the following:

        (1) Road Construction Coordination: The program shall minimize the total traffic impacts by routing and staging construction traffic to and from the site, scheduling road openings and closures, and providing coordination with other major construction projects in the area.

        (2) Road Closures: Road closure detour plans shall be reviewed and approved by King County Traffic Engineering. All traffic control signs, flagging, and other devices shall conform to the latest edition of the Manual on Uniform Traffic Control Devices ("MUTCD") for streets and highways and standard specifications for road, bridge, and municipal construction. When determined necessary by DDES and KCDOT, the Applicant shall provide written notification of road closures to area residents.

(3) Other Traffic Control Plans including Partial Lane Closures: Traffic control plans shall be subject to the review provisions stated above for road closures, provided that all traffic lanes must remain open during AM and PM-peak hours.

e. Tracts for joint use driveways shall be a minimum of 20 feet in width and improved with 18 feet of pavement and controlled drainage. The serving lots shall have undivided ownership of the tract and be responsible for maintenance.

f. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.

11. The final plat shall comply with the following geotechnical requirements:

a. The engineering plans shall comply with the recommendations of the geotechnical engineer (AESI report dated April 30, 1998 and amended by reports dated August 3, 1998, September 16,1999 and October 12, 1999). Any supplemental studies recommended by the consultant for specific site design shall also be submitted.

b. Geotechnical reports shall be submitted with the final engineering plans to address requirements for the design and construction of stormwater ponds. The reports shall address the stability of the slopes, both natural and constructed, and shall demonstrate using a quantitative slope stability assessment that they remain stable under static and pseudostatic conditions.

c. Geotechnical requirements for development of the subdivision shall comply with the sensitive area code, KCC 21.54, which was in effect at the time of project vesting on December 30, 1988 and with the mitigation for steep slopes and landslide hazard areas referenced in the Final Environmental Impact Statement. Site development plans and the final plat shall also comply with the King County Administrative Guidelines for Hazardous Slopes dated February 1, 1987, with the exception of Southeast 19th Street and any utilities serving the plat. The engineering plans and final plat shall show the boundaries for top and toe of 40% slopes and provide the required buffers and/or setbacks as determined by the DDES staff geologist.

d. The geotechnical engineer shall evaluate the specific designs for all utility crossings of steep slopes and landslide hazard areas and a report shall be submitted with the engineering plans. The report shall demonstrate that the installation of these utilities will not subject the area to risk of landsliding or erosion. Depending on the amount of disturbance proposed, a revegetation and slope stabilization plan may be required at the discretion of DDES at the time of engineering plan submittal. Both a landscape architect experienced in native slope restoration plans and the geotechnical engineer should prepare the plan. The plan shall include recommendations for soil amendment and the use of native plantings to replicate both understory and canopy plantings. A five year maintenance, monitoring and restoration bond shall be established to ensure the long term functioning of these mitigation measures.

e. At the time of engineering plan submittal the applicant shall provide a grading plan that conforms to the geotechnical engineering report for the access road from SR 202. The grading plan shall incorporate slope angles or retaining walls, which have a minimum factor of safety of 1.5 for the static condition and 1.1 for the pseudostatic conditions.

f. The area at the rear of lots 17 and 18 which meets the definition of a Class III landslide hazard area under Ordinance 4365 shall be protected by modifying the boundaries of lots 17 and 18 so that the Class III landslide hazard area is located within the adjacent sensitive area tract.

12. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.

13. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

14. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

15. Off-site access to the subdivision shall be over a full-width, dedicated and improved road that has been accepted by King County for maintenance. If the proposed access road has not been accepted by King County at the time of recording, then said road shall be fully bonded.

16. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The

vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

17. Determine the top, toe, and sides of 40% slopes by field survey. Provide a 50-foot buffer from these slopes. The buffer may be reduced to 10 feet with the submittal of a satisfactory soils report.

18. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and/or open space area(s).

19. The following have been established under SEPA authority as requirements necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.

Wetlands and Streams

Unless otherwise stated, the wetland and stream protection, alteration and mitigation requirements found in KCC 21A.24 shall be applied to this plat. These requirements are further clarified and expanded upon below.

a. As identified in Final EIS Table 2.3.1, Class 2 wetlands shall have a minimum 50-foot buffer of undisturbed native vegetation, and Class 3 wetlands shall have a minimum 25-foot buffer of undisturbed native vegetation.

b. Buffer averaging is proposed around some of the wetlands on this project. It may be approved during engineering plan review if it meets the following criteria: it will provide additional protection to the wetlands or enhance their functions, and the total area contained in the buffer around each wetland does not decrease.

c. Class 3 streams on the site shall have a minimum 25-foot buffer of undisturbed native vegetation, measured from the ordinary high water mark, provided this condition shall not apply to the road crossing of unnamed stream #1 on 293rd Avenue Southeast.

d. The stormwater bypass pipeline proposed to discharge into the Snoqualmie River shall be designed to include bioengineering techniques at the outlet.

e. The water supply pipeline proposed to be installed under Patterson Creek along Duthie Hill Road shall use "jack and bore" construction techniques, with the boring and receiving pits a minimum of 25 feet from the ordinary high water mark of the Creek. The water pipeline shall be bored a minimum of four feet below the maximum depth of scour for the base flood as determined by a civil engineer licensed in the State of Washington.

Erosion Hazards (FEIS PG. 2.1-11)

f. As approved by DDES, a qualified, full-time erosion and sediment control inspector shall be present onsite throughout all clearing and grading phases of the project. The inspector shall be responsible for ensuring that water leaving the site is at or below acceptable turbidity levels as determined by WSDOE/NPDES permit. The inspector will approve all potential sediment-producing actions, monitor all erosion control actions and equipment, be independent of the construction contractor, and have authority to stop any action not deemed suitably protective of water quality. The final erosion control plans shall contain the name and contact number for the special inspector and outline the responsibilities for implementation and reporting to King County.

g. All clearing and grading of each parcel should begin at the farthest point from any stream and work toward the stream to maintain as large a riparian buffer as possible.

h. Construction of the western access road along SR 202 requires special erosion and sediment control measures, as identified beginning at page 2.1-11 of the Final EIS. The measures must describe how stormwater in this sensitive area will be collected and treated to required standards, prior to conveyance to Patterson Creek. The system for pumping runoff up to the R/D facilities for treatment shall meet the requirements of Section 4.2.3 of the 1998 Surface Water Design Manual and be sized based on the site's high erosional risk and proximity to a salmonid-bearing stream. The erosion control plan must also identify an allowable construction period within the limitations of the dry season to minimize the potential for precipitation. Storm event response methods and timing for cover response must also be described.

i. In areas designated as erosion hazard in accordance with KCC 21A.24 the seasonal construction constraints will be April 1 to September 1, except that up to 15,000 square feet may be cleared on any lot subject to wet weather sedimentation and erosion control requirements of the King County Surface Water Design Manual and performance standards for water quality discharge. Clearing shall not occur, however, on any lot subject to the covenant imposed by Condition 19.v below prior to the removal of the restriction on lot sale and development.

j. Prior to the onset of winter, any exposed subgrade should be seeded, covered with plastic sheeting or otherwise protected. Seeding should be planted prior to September 1 in order

to have the grass established by late October. In addition, exposed construction slopes should be trackwalked (up and down) in order to roughen the ground surface and reduce runoff velocities.

Surface Water (FEIS pg. 2.2-19)

k. A stormwater pollution prevention plan shall be submitted as part of an NPDES permit application for construction.

l. Sediment and erosion control procedures in the 1998 Surface Water Design Manual shall be used for construction of the water pipeline and stormwater outfall. Construction shall occur during dry weather, and disturbed areas would be refilled/replanted.

m. Stormwater runoff shall be treated in wet ponds per the Surface Water Design Manual. Wet ponds P-1 and P-2 will have basic sized sand filters with sand bed depth of 24 inches; cedar, fir, and cottonwood trees shall be planted along the southern aspect of the ponds to provide shading.

n. In accordance with the terms of the approved diversion variance, drainage from approximately 103 acres of developed areas shall be diverted to the Snoqualmie River. The remaining developed area draining to Patterson Creek shall be treated within detention ponds designed to King County Level 3 standards. Flows from sub-basins P-7 and P-8 shall not be diverted to the Treemont North R/D system.

o. Water quality mitigation for any undetained bypass drainage along portions of SR 202 and the entry road shall include bioswale treatment and meet the standards in the 1998 KCSWDM.

Archaeology/Historic Preservation

p. These conditions are designed to insure that archaeological materials, if encountered, are evaluated and treated in the appropriate manner in accordance with State and County regulations.

(1) a professional archaeologist prepare a discovery plan to implement immediately should resources be found during grading and excavation on site;

(2) excavation and site preparation crews be trained by a professional archaeologist to recognize potential archaeological materials; and

(3) the County grading/erosion monitor be trained and instructed to inspect carefully for potential archaeological materials during grading and other site preparation/disturbance on site.

The discovery plan should go into effect immediately if potential archaeological materials are encountered and should, at a minimum, include the following:

(1) cessation of work where potential materials are discovered until they can be examined by a professional archaeologist and further appropriate actions undertaken;

(2) immediate notification of an on-call professional archaeologist to evaluate the discovered materials;

(3) immediate notification and consultation with the State Office of Archaeology and Historic Preservation, the King County Office of Cultural Resources and relevant tribes (including the Snoqualmie, Tulalip and Muckleshoot tribes) if discovered materials are prehistoric and a site is present;

(4) provisions for further delineating any site present and obtaining an excavation permit and proceeding with data recovery if such action is deemed appropriate by the archaeologist and consulted parties; and

(5) provisions for removal and reinterment of human remains, analysis and curation of other materials, stewardship and disposition**,** and reporting to the consulted agencies and tribes.

q. As outlined in the Final EIS at Section 2.7.3.1, the Applicant shall assist in relocating the three historically significant buildings on the Schroeder parcel to nearby sites by offering them for sale at a nominal sum, underwriting assembly and relocation costs, and advertising their availability in at least two Eastside newspapers serving the Fall City area over a four-week publication period.

Traffic

The Proposed Alternative of Treemont plat will have significant adverse impacts, as defined in KCC 14.80, "Intersection Standards", at the following intersections:

King County Intersections:

- East Lake Sammamish Parkway/Issaquah Fall City Road

WSDOT Intersections:

- SR 202/292nd Avenue Southeast (Duthie Hill Road)
- SR 202/Site Access
- SR 202/Southeast 8th Street
- SR 202/(East Lake Sammamish Parkway to Sahalee Way)
- I-90/Front Street Interchange

The following traffic conditions shall be satisfied during engineering plan review or before final

plat recording of the 194-lot proposed lot alternative:

KING COUNTY INTERSECTIONS

Issaquah/Fall City Road/East Lake Sammamish Parkway:

r. The intersection of Issaquah Fall City Road/East Lake Sammamish Parkway (IFC/ELSP) will function at LOS "F" in the AM peak hour. The plat of Treemont will have a significant adverse impact at this intersection.
King County CIP project #201197 (East Lake Sammamish Parkway) is programmed for construction in 2000 to provide improvements to this intersection, but due to the westbound I-90 on-ramp queuing the IFC/ELSP intersection will remain at LOS F. The North SPAR Road CIP #101289 is programmed for construction in 2001 and the South SPAR Road CIP #200496, and the Sunset Interchange are programmed for construction in 2000 and will provide an additional access route to the Sammamish Plateau – reducing the background traffic volumes at the IFC/ELSP intersection and the I-90 westbound on-ramps.

It is forecast that a percentage of the Treemont-generated trips will be rerouted to the SPAR Road from the IFC/ELSP intersection. With the opening of the SPAR Road, the plat of Treemont is expected to contribute less 20% of their peak hour trips to the IFC/ELSP intersection.

The Applicant is required to pay MPS fees that contribute to the IFC/ELSP intersection project (CIP #201197). However, the SPAR Road projects are not included in the current MPS fee schedule. Therefore, a fair share payment into the SPAR Road projects (CIP #101289, and CIP #200496), contributing to the funding of an additional route to I-90, in conjunction with the payment of MPS, would be adequate mitigation to the IFC/ELSP intersection.

- In order to assure fair share payment into the SPAR Road corridor, the Applicant/Developer shall pay a pro-rata share towards the North and South SPAR Road projects consistent with the Developer's portion of CIP Projects 101289 and 200496. This payment has been calculated at $6,318 per PM-peak hour trip to/from Treemont using the North and South SPRA Roads. The 194-lot proposed alternative will generate 42-peak hour trips through the North and South SPAR Roads. Therefore, the total pro-rata share for the proposed alternative is 42 PM-peak hour trips (per the FEIS) x $6,318 = #265,368, or $1,368 per lot.

  If phasing of the plat is proposed, the pro-rata share payment for each phase will be calculated based on the number of lots in the phase, multiplied by $1,368, and due upon final recording of each phase.

- If at the time of final plat recording for Treemont an updated MPS fee schedule which includes the North and South SPAR CIP projects has been adopted, and if the developer chooses to pay MPS fees at the time of building permit approval, a pro-rata share payment will no longer be required at the time of final plat approval.

WSDOT INTERSECTIONS

SR 202/292nd Avenue Southeast:

s. The intersection of SR 202/292nd Avenue Southeast will function at LOS F in the PM peak hour with and without the project with future pipeline development volumes. Treemont will have a significant adverse impact at this intersection by contributing more than 30 peak hour trips, which constitute at least 20% of Treemont's peak hour trips. WSDOT has recommended the developer provide a signal at the intersection, which will improve the intersection level of service to "B". Therefore, the following condition shall be satisfied prior to final plat recording:

(1) The Applicant shall enter into a legal agreement with WSDOT to construct a signal at the intersection of SR 202/292nd Avenue Southeast. The signal plans shall be approved by WSDOT prior to final plat recording and the signal bonded for assurance the signal will be operational within one year of final plat recording.

OR

(2) If the developer chooses to phase the plat, a phasing plan must be reviewed and approved by King County DDES prior to phase I approval, including number of lots per phase and the proposed timing of each phase. The following requirements must be met prior to recording of each phase:

- The developer can record up to 42 lots without signal installation.

- Prior to final recording of a phase that creates a cumulative lot count of greater than 42 lots, a signal must be installed at SR 202/292nd Avenue Southeast. The signal plans shall be approved by WSDOT prior to final plat recording and bonded for assurance the signal will be operational within one year of final plat recording.

SR 202/Site Access (Southeast 19th Street):

t. The new intersection of SR 202 and the site access meets WSDOT design standards for auxiliary lanes on SR 202. Without additional turn lanes a potential safety hazard, as

well as LOS deficiency, could result. Therefore, the Applicant shall construct:

(1) A southbound left turn lane on SR 202 at the site access.
(2) A northbound right turn lane on SR 202 at the site access.
(3) The site access road

The turn lanes must be designed to meet WSDOT standards and reviewed and approved by WSDOT prior to final plat recording.

u. Prior to final engineering plan approval for road improvements, the Applicant shall submit to DDES a supplemental traffic study analyzing the potential for cut-through traffic from existing and future lots to the north to use Southeast 19th Street in lieu of Southeast 8th Street for access to Duthie Hill Road and other destinations lying east and south of the plat along the SR 202 corridor. The study shall quantify the amount of cut-through traffic during the AM and PM-peak hours and determine whether these additional volumes warrant turn lane improvements on Southeast 19th Street at SR 202 or construction of 294th Place Southeast at a neighborhood collector standard. This study shall also be submitted to WSDOT for review and comment.

If the preliminary plat approval authorizes residential development at more than 71 lots without a firm financial commitment for completion of the I-90/Sunset Interchange as presently designed, the supplemental traffic study shall also include an analysis of traffic impacts at SR 202 intersections within Fall City and along the Fall City/Preston Road south to I-90 to determine whether Treemont traffic that will circumvent congested South Plateau intersections will have adverse safety or level of service impacts. If such impacts are identified, the Applicant shall be required to provide appropriate mitigation.

<u>SR 202 (East Lake Sammamish Parkway to Sahalee Way) and I-90 Front Street Interchange</u>:

v. The plat of Treemont will have significant adverse impacts per KCC 14.80 "Intersection Standards" on SR 202 (identified as a High Accident Corridor) and the I-90/Front Street Interchange.

WSDOT has requested pro rata share payment for capacity and safety projects scheduled for SR 202 and the I-90/Front Street Interchange (the actual capacity improvement being the construction of the Sunset Interchange at the southerly terminus of the SPAR Road). The projects subject to pro rata share payment are SR 202 between East Lake Sammamish Parkway and Sahalee Way and the Sunset Interchange. For such projects the Applicant shall enter into a legal agreement with WSDOT to pay a pro rata share in the amount of $1,152 per lot.
Prior to final plat approval (or the recording of any phase that includes the 71st lot of the plat), the Applicant shall demonstrate that a firm and unconditional commitment exists for the funding of the state's share of the Sunset Interchange improvement as currently planned, as evidenced by the fact that a contract for construction of the facility has been awarded. If such firm funding commitment does not exist, the following alternative condition shall be met:

The Applicant shall record in a form approved by the prosecuting attorney a legal covenant running with the land that prohibits the sale or residential development of more than 71 lots within Treemont until a firm and unconditional commitment has been made for funding of the state's share of the Sunset Interchange, as evidenced by the fact that a contract for construction of the facility has been awarded.

w. The Applicant shall be permitted to record the final plat in phases. Phase I employing access via Southeast 8th Street shall be limited to 20 lots. The new access road (Southeast 19th Street) shall be constructed as part of any final phase that increases the total lot count above 20 lots.

SHORELINE PERMIT DECISIONS:

Shoreline substantial development permit Nos. L98SH006, L98SH007, and L98SH008 are APPROVED, subject to the following conditions:

1. Nothing in this permit shall be construed as excusing the Applicant from compliance with any federal, state, or local statutes, ordinances, or regulations applicable to this project other than the permit requirements of the Shoreline Management Act of 1971.

2. The permit may be rescinded pursuant to Section 14(7) of the Shoreline Management Act of 1971 in the event the permittee fails to comply with any conditions thereof.

3. Construction pursuant to this permit may not begin or be authorized until twenty-one (21) days form the date of filing the final order of King County with the Department of Ecology or the Attorney General; or until all review proceedings initiated within twenty-one (21) days from the date of such filing have been terminated.

4. Time Requirements of the Permit (WAC 173-27-090). The following requirements shall apply to all permits:

   a. Based on the phasing schedule for the project (Exhibit No. 48), the amount of time required to construct some components of the project, the need to coordinate construction of the shoreline improvements with the subdivision improvements, and the need for consistency in the time limitations for final plat work and the shoreline permits, good cause exists to allow an alternative to the standard time requirements set forth in WAC 197-27-090 for the shoreline construction contemplated for this project, as follows:

      Construction within the shoreline for all three shoreline permits shall be started, constructed and become operational within five years of the effective date of the shoreline permits.

b. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit. Provided that, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.

c. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. It is the responsibility of the Applicant to inform the local government of the pendency of other permit applications filed with agencies other than the local government and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the local government prior to the date established by the shoreline permit or the provisions of this section, the expiration of a permit shall be based on the shoreline permit.

d. When permit approval is based on conditions, such conditions shall be satisfied prior to commencement of a nonstructural activity. Provided that, an alternative compliance limit may be specified in the permit.

e. Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired under section (2) of this section: Provided that, this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time of the original permit.

f. Local government shall notify the department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by this section shall require a new permit application.

5. Construction shall occur in conformance to the approved plans and information relative to the Preliminary Plat of Treemont (S128903) and King County Surface Water Manual (KCSWM) Variance No. L98VA0041. Pertinent conditions of the plat approval and drainage variance approval shall be considered to be conditions of this Shoreline Permit. If the Treemont preliminary plat application is denied by the King County Council, these shoreline permits shall become null and void.

6. Any subsequent changes to the approved shoreline plans may require the Applicant to obtain a new shoreline permit for a revision to this shoreline permit pursuant to WAC 173-27-100.

7. During construction, the Applicant must use materials and construction methods that prevent toxic materials, petrochemicals, and other pollutants from entering the Snoqualmie River or Patterson Creek directly or indirectly.

8. With regard to the outfall to the Snoqualmie River, river bank protection shall be provided to minimize negative impacts on the riparian system and on fish habitat. Following outfall

construction, the area shall be replanted with native plants and shall be generally consistent with Exhibit No. 41 and the approved HPA. Stabilizing efforts shall use bioengineering techniques such as willow brush mattresses, bundles, and/or live stakes to protect against erosion on slopes and to provide protection against shallow mass movement. Through the final drainage engineering review process, an enhancement plan for this outfall shall be provided using the aforementioned bioengineering techniques and minimizing, to the extent feasible, the use of structural materials and encroachment upon floodplain storage.

9. Prior to work within Shoreline Management jurisdiction, the Applicant shall obtain a Hydraulic Project Approval (HPA) from the Washington State Department of Fish and Wildlife ("WSDFW"). Any conditions of the HPA shall be considered conditions of this Shoreline Permit.

10. Surplus material resulting from the construction of that portion of the proposed project within Shoreline Management jurisdiction shall be removed to a location authorized to accept such material. Such surplus material shall not be allowed to enter the waters of the Snoqualmie River or Patterson Creek.

11. Silt fences, straw bales or other such devices shall be employed around the work area to prevent escapement of sediment or contaminate materials. Plat TESC conditions relating to construction of the new access road and road widening along SR 202 shall be incorporated as conditions of this permit.

12. Prior to work, authorization to construct said projects shall be secured from the Washington State Department of Natural Resources ("WSDNR").

13. Within 30 days after completion of the work, photographs of each project site shall be taken from different directions and provided to DDES-Shorelines.

14. All development activities within Shoreline jurisdiction shall comply with applicable provisions of KCC 21A.24 as they existed at the time of shoreline permit application; provided that, for purposes of regulating the alteration of wetlands adjacent to SR 202 the requirements of KCC 21A.24.330.N (wetland road crossings) shall apply.

DATED this 2nd day of February, 2000.

_____

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 2nd day of February, 2000, to the following parties and interested persons:

	Robert Angrisano	William and Jayne Barrere
John Adams	Donald Armstrong	Carol A. Beck
Aldarra Farms		Edward Besch

Paul Bishop

Terry Branthwaite
Paul Bride
Gail S. Brooks
Thomas Card
Leonard Carlson
Christopher J. Center
Carol Chittum
Christine Clapp
Kevin Cleary
Patricia Clifford
David A. Edwards
Glenn L. Eklund
Joseph Elfelt
James and Pam Fratello
Erick Haakenson
Carl G. Hadley
Joel Haggard
William Harper
Gus Henderson
Rebecca Inman
Robert Josephson
Lorraine Kapin
Maxine Keesling
Fred W. Keller
Janet Keller
Andrew Kindig
Tesa Kluver
Curtis Koger
John & Janice Kyte
Teresa LeMay
David & Debra Lucht
Joseph Matt
Rosemary McCauley
Jim & Lisa McKay
Allen & Kristin Minner
Joe Monahan
Mark Morgan
Cindy Parks
Resident
Dave & Corinne Ridgley
Robert & Audrey Schroeder
Robert Seana
Seattle-King County Health Dept
Phil Seneke
Harriette Shake
Hugh B. Starkey
Arthur Strom
John Sutherland
Kathryn Taylor
Patrick Tharp
Patrick N. Tharp
Ilze Tomsevics
The Transpo Group
Tom Uren
Mark Bergam
Greg Borba
Steve Botthei
Laura Casey
Kim Clussen
Peter Dye
Steve Foley
Rich Hudson
Louise Kulzer
Kristen Langley
Aileen McManus
Mark Mitchell
Carl Osaki
Carol Rogers
Charlie Sundberg
Steven C. Townsend

PLAT NOTICE OF RIGHT TO APPEAL AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of $125.00 (check payable to King County Office of Finance) on or before February 16, 2000. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before February 23, 2000. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

SHORELINES

The decision of the Shoreline Hearing Examiner may be appealed to the State Shoreline Hearings Board. Information on appeal procedures may be obtained from Washington State Department of Ecology, Olympia Office -- telephone (206) 459-6327. Requests for review by the Hearings Board must be received by the State Department of Ecology and State Attorney General's Office within thirty (30) days of receipt by the Department of Ecology of the permit or letter of denial.

MINUTES OF NOVEMBER 3, 4, AND 19, AND DECEMBER 3, 1999, PUBLIC HEARING ON DDES FILE NO. S128903 – TREEMONT.

Stafford L. Smith was the Hearing Examiner in this matter. Participating at the hearing were Rich Hudson, Peter Dye, Mark Mitchell, Steve Bottheim, Aileen McManus, Laura Casey, Delite Morris, and Tom Beavers, representing the County; Bob Johns, John Adams, Carol Beck, Tom Uren, Bob Seana, Erick Haakenson, Joe Monahan, Cindy Parks, Curtis Koger, Andrew Kindig, Carl Hadley, Gail S. Brooks, Larry W. Toedtli, Leonard Carlson, Arthur Strom, David Edwards, John Sutherland, William Harper, Robert Angrisano, Paul Bishop, Zak Treisman and Don Armstrong.

The following exhibits were offered and entered into the hearing record **November 2, 1999**:

Exhibit No. 1	Department of Development and Environmental Services File No. S128903
Exhibit No. 2	Department of Development and Environmental Services preliminary report for the November 2, 1999, public hearing.
Exhibit No. 3	Application dated December 30, 1988
Exhibit No. 4	Environmental documents:
.a	Draft Environmental Impact Statement (DEIS) dated August 1994
.b	DEIS Addendum dated March, 1999
.c	Final EIS and technical addenda and studies
Exhibit No. 5	Affidavit of Posting indicating October 4, 1999, as date of posting and October 6,

	1999, as the date the affidavit was received by the Department of Development and Environmental Services
Exhibit No. 6	Preliminary plans submitted October 11, 1999
Exhibit No. 7	Department of Development and Environmental Services Shorelines File Nos. L98SH006, 007, and 008
Exhibit No. 8	Shoreline permit applications for file Nos. L98SD006, 007, and 007
Exhibit No. 9	Land use maps (portions of Section 5 & 6, Range 24N, Township 7E)
Exhibit No. 10	Resume of Carol A. Beck, JD, APA
Exhibit No. 11	Resume of Thomas M. Uren, Hugh G. Goldsmith & Assoc
Exhibit No. 12	Fig. 2.5 –Diagram of existing street system
Exhibit No. 13	Regional Drainage Map
Exhibit No. 14	Overall Site Plan (colored)
Exhibit No. 15	Snoqualmie River Flood Plan Limits (map source: FEMA panel 705 effective date – May 16, 1995; FEMA panel 710 effective date – May 20, 1996)
Exhibit No. 16	Post Development Drainage Basin Map
Exhibit No. 17	Regulatory Detention Volumes per Various Regulatory Standards
Exhibit No. 18	Pre and Post Development Volumes and Rates to Patterson Creek
Exhibit No. 19	Overall Map of Off-site Storm Sewer
Exhibit No. 20	Written testimony of Cindy Parks
Exhibit No. 21	Water Supply Line Jack and Bore Exhibit
Exhibit No. 22	Hydraulic Project Approval (application accepted October 7, 1999)
Exhibit No. 23	Preliminary Entrance Road Design
Exhibit No. 24	Resume of Curtis J. Koger, CPG
Exhibit No. 25	Water Well Location Map (1995 source)
Exhibit No. 26	Figure 12: Cross section C-C[1]
Exhibit No. 27	Figure 2: Subsurface Exploration Map
Exhibit No. 28	Figure 6: Geology Map
Exhibit No. 29	Figure 13: Landslide Hazards Map
Exhibit No. 30	Existing Entrance Road Cross Section A-A[1]
Exhibit No. 31	Entrance Road Proposed Excavation
Exhibit No. 32	Resume of Andrew C. Kindig, PhD, Biologist/Water Quality
Exhibit No. 33	Schematic Water Quality Design for Treatment of Residential Runoff to Patterson Creek
Exhibit No. 34	Regulatory Water Quality Pond Volumes
Exhibit No. 35	Andrew C. Kindig Hearing Testimony Outline

The following exhibits were offered and entered into the hearing record **November 3, 1999**:

Exhibit No. 36	KCC 21.24 – General Classification
Exhibit No. 37	Letter dated October 12, 1999, from Associated Earth Sciences to Port Blakely Communities, Attn. John Adams and Carol Beck regarding Supplementary Geotechnical Analysis and Recommendations for Planned Southeast 19th Street Cut Slopes
Exhibit No. 38	Subsurface Exploration and Geotechnical Engineering Report for Proposed Western Entrance Roadway, Storm Water Tightline, and Water Main Alignments dated August 3, 1998, prepared by Associated Earth Sciences

Exhibit No. 39	Sammamish Plateau Water and Sewer District Developer Extension Agreement
Exhibit No. 40	Resume of Carl G. Hadley, Fisheries Biologist
Exhibit No. 41	Stormwater Outfall to Snoqualmie River – Bank Restoration Plan
Exhibit No. 42	Monday, November 1, 1999, *The Seattle Times* article entitled "Development muddies the waters".
Exhibit No. 43	Letter dated September 16, 1999, from Curtis J. Koger, Geologist/Hydrogeologist, Associated Earth Sciences, to Port Blakely Communities, Attn. John Adams, re Class III Landslide Hazard Areas Amended Treemont Residential Subdivision
Exhibit No. 44	Resume of Gail S. Brooks, Sr. Scientist/Planner
Exhibit No. 45	Treemont Stormwater Bypass Wetlands Study dated February 1998 submitted by Berger/Abam Engineering, Inc.
Exhibit No. 46	Amended Treemont Residential Preliminary Plat, Conceptual Wetland and Stream Mitigation Plan dated October 1998
Exhibit No. 47	Conceptual TESC Plan
Exhibit No. 48	Treemont Conceptual Phasing Plan
Exhibit No. 49	Resume of G. Aaron McMichael, PE
Exhibit No. 50	Resume of Larry W. Toedtle, PA of the Transpo Group
Exhibit No. 51	Certificate of Concurrency for the Treemont Development dated October 1, 1996, executed by William G. Hoffman, KCDOT, Transportation Planning Division
Exhibit No. 52	Figure 2.5-4 Illustration of Traffic Distribution
Exhibit No. 53	Excerpt from August 1997 Design Manual (Intersections at Grade, pp 910-4 & 5 and p 910-16)
Exhibit No. 54	Map showing adjacent ownership within 5 miles of project
Exhibit No. 55	*Cougar Mountain Associates, Appellant, v. King County, Respondent,* Supreme Court of Washington File No. N53841-7
Exhibit No. 56	Excerpts from various sources discussing "Rural character"
Exhibit No. 57	Memorandum dated July 8, 1999, from Carol A. Beck (Port Blakely Communities, Inc.) to Mark Carey, Rich Hudson, Greg Borba and Pete Dye (DDES/LUSD) re Treemont SEPA Plans and Policy (Rural Character) Issue

The following exhibits were offered and entered into the hearing record **November 4, 1999**:

Exhibit No. 58	Summary of Code Provisions Applicable to Preliminary Plat and Shoreline Substantial Development Permits of Treemont submitted by Applicant
Exhibit No. 59	Ordinance No. 4365
Exhibit No. 60	King County Building and Land Development Division Administrative Guidelines/Building Setbacks from Hazardous Slopes on Plats and Short Plats/Effective Date: February 1, 1987
Exhibit No. 61	Applicant's Corrections and Changes to Staff Report
Exhibit No. 62	Preliminary Phasing Plan
Exhibit No. 63	Treemont Subdivision DEIS Addendum Transportation Technical Appendix (April 1, 1998)
Exhibit No. 64	Treemont Subdivision DEIS Addendum Transportation Technical Appendix (January 21, 1999)
Exhibit No. 65	Draft Water Quality and Fisheries Analysis Addendum to DEIS; Amended Treemont Residential Subdivision (March 30, 1998)

Exhibit No. 66	Amended Treemont Residential Preliminary Plat; Preliminary Hydrologic Analysis and Level One Downstream Analysis (March 1998)
Exhibit No. 67	Plat map of preliminary plat of Aldarra (S90P0082)
Exhibit No. 68	Memorandum dated November 2, 1999, from Charlie Sundberg (Preservation Planner) to Rich Hudson (SEPA Coordinator)
Exhibit No. 69	Public comment letter dated October 30, 1999, from Fred W. Keller
Exhibit No. 70	Hearing Examiner's Report and Recommendation on preliminary plat of Aldarra (S90P0082) dated October 14, 1999
Exhibit No. 71	Letter dated November 1, 1999, from Robin Rolstad (WSDOT) to Rich Hudson re WSDOT mitigation requirements
Exhibit No. 72	Memorandum dated November 2, 1999, from Aileen McManus (KCDOT) to Rich Hudson (DDES/LUSD) re SPAR Road Pro-Rata
Exhibit No. 73.a	"Bull Trout in the Snohomish River System" prepared by Washington Department of Fish and Wildlife July 1999
.b	Bull Trout Distribution map (data as of January 7, 1999)
.c	Bull Trout Distribution in Snohomish, King and Pierce Counties map (as of January 7, 1999)
Exhibit No. 74	Revised preliminary plat map for Treemont North – Phase III
Exhibit No. 75	Patterson Creek Flow Data

The following exhibits were offered and entered into the hearing record **November 19, 1999**:

Exhibit No. 76	Comment letter from Debora Moery to the Hearing Examiner faxed November 18, 1999
Exhibit No. 77	Letter dated November 14, 1999, from Mr. and Mrs. B. Leonard Carlson to the Hearing Examiner expressing their concerns
Exhibit No. 78	Letter dated (and transmitted via fax) November 18, 1999, from Ian D. Macrae to the Hearing Examiner
Exhibit No. 79	Letter dated November 8, 1999, from Louis J. Haff of City of Issaquah to Fred Brower (Transportation Improvement Board) regarding the future of the Sunset Interchange Project on I-90 with the passage of I-695
Exhibit No. 80	Duthie Hill/292nd Ave SE warrant study (WSDOT)
Exhibit No. 81	Article submitted by Christopher W. May (Applied Physics Laboratory, College of Ocean and Fishery Sciences, U of W) entitled "The Cumulative Effects of Urbanization on Small Streams in the Puget Sound Lowland Ecoregion"
Exhibit No. 82	Vicinity map including Duthie Hill Road
Exhibit No. 83	Affidavit (including bicycle) dated August 24, 1999, by Jim MacIsaac (initially prepared for Aldarra hearing)
Exhibit No. 84	Five (A-E) photographs submitted by Arthur Strom
Exhibit No. 85	Comment letter dated November 12, 1999, from Sharon Meehan to DDES
Exhibit No. 86	Five (A-E) photographs of flooding submitted by Cindy Parks
Exhibit No. 87	Fax cover sheet (including written comment) dated (and transmitted) November 18, 1999, from Rich Hudson to Debora Moery
Exhibit No. 88	Three (3) photographs of flooding (Patterson Creek) submitted by Mr. Seana
Exhibit No. 89	Patterson Creek Flow Data (February 1990-March 1999)

Exhibit No. 90	Collection (3) of writings regarding impacts of rural and urban uses on Patterson Creek
Exhibit No. 91.a	Excerpt from November 8, 1999, Woodinville Weekly/Northlake News, etc. regarding I-695 fallout
.b	November 19, 1999, Eastside Journal, page A4

The following exhibits were offered and entered into the hearing record **December 3, 1999**:

Exhibit No. 92	Document dated December 1, 1999, from Jim and Lisa McKay to Hearing Examiner
Exhibit No. 93	Letter dated November 29, 1999, from Robert P. Seana to Hearing Examiner
Exhibit No. 94	Letter with attachments (transmitted via fax) dated November 29, 1999, from Cindy Parks to Stafford L. Smith, Bob Johns and Rich Hudson
Exhibit No. 95	Copy of e-mail from Teresa Kluver to Stafford Smith, transmitted December 1, 1999
Exhibit No. 96	Comment letter from Lisa McKay received by Hearing Examiner December 1, 1999
Exhibit No. 97	Letter dated November 29, 1999, from Jim and Lisa McKay to Hearing Examiner
Exhibit No. 98	Copy of e-mail from Donald Armstrong to Stafford Smith, transmitted December 1, 1999
Exhibit No. 99	Copy of e-mail from Chris Center to Stafford Smith, transmitted December 2, 1999
Exhibit No. 100	Copy of e-mail from Donald Armstrong to Stafford Smith, transmitted December 2, 1999
Exhibit No. 101	Copy of e-mail from Jeff Scholl to Stafford Smith, transmitted December 2, 1999
Exhibit No. 102	Letter dated December 2, 1999, from Janet Keller to the Hearing Examiner
Exhibit No. 103	Letter dated December 2, 1999, from Joe Monahan to Stafford Smith
Exhibit No. 104	Comment letter from Ilze Tomsevics to Hearing Examiner received (by DDES) December 2, 1999
Exhibit No. 105	Letter (with attached memo) dated November 29, 1999, from Ronald Paananen, KC Roads Services Division to Tom Uren
Exhibit No. 106	Hydraulic Project Approval (Date of Issue: November 17, 1999)
Exhibit No. 107	Letter dated December 1, 1999, from Dave and Corinne Ridgley to Stafford Smith
Exhibit No. 108	Comment letter dated October 30, 1999, from Fred W. Keller
Exhibit No. 109	Hearing testimony materials submitted by Erick Haakenson
Exhibit No. 110	Graph: Paired Peak Flows on Snoqualmie River
Exhibit No. 111	Graph: Verification Plot of Regression Results with Corresponding USGS Measurements
Exhibit No. 112	Graph: Regression Residuals at Carnation
Exhibit No. 113	King Soil Conservation District Floodplain Management 1994 Study
Exhibit No. 114	Copy of e-mail from Randall Parsons to Pete Dye (cc Steve Bottheim)
Exhibit No. 115	Copy of e-mail from Greg Kipp to Mark Carey (cc Rich Hudson) re Treemont plat permit vesting vs SEPA vesting
Exhibit No. 116	King County Building and Land Development Division Administrative Guidelines Building Setbacks from Hazardous Slopes on Plats and Short Plats: Effective Date:

	February 1, 1987
Exhibit No. 117	Copy of e-mail from Tom Bean to Randall Parsons, Pete Dye, Steve Foley and Ken Krank (cc Mark Bergam) re draft Treemont Subdivision KCSWM Variance
Exhibit No. 118	Memorandum dated April 16, 1999, from Peter Dye to Rich Hudson re Treemont Addendum EIS, March 1999
Exhibit No. 119	KC Development Condition Query Results, Post-Conversion Condition: SO-230
Exhibit No. 120	Letter dated December 2, 1999, from Robert P. Seana to Stafford Smith
Exhibit No. 121	Revised Staff Report Conditions (dated December 3, 1999)
Exhibit No. 122	Applicant's Corrections and Changes to Staff Report
Exhibit No. 123	Applicant's suggested changes to Duthie Hill Road conditions
Exhibit No. 124	Seattle-King County Department of Public Health Environmental Health Services water and sewer disposal application (executed August 9, 1988)
Exhibit No. 125	King County Certificate of Water Availability (executed September 6, 1988)
Exhibit No. 126	Plat map approved by Health Department November 29, 1998, showing lot lines for purposes of septic systems
Exhibit No. 127	Letter dated November 29, 1999, from David R. Jensen (DR Strong) to Carol Beck (Port Blakely Communities)
Exhibit No. 128	Map of plat and vicinity with photographs illustrating visual character of area
Exhibit No. 129	Map showing Treemont Tree Preservation Areas
Exhibit No. 130	Preliminary Treemont entrance road profile
Exhibit No. 131	Proposed SE 8th Street profile
Exhibit No. 132	Calculations on runoff rates at Snoqualmie River and Carnation
Exhibit No. 133	Comment letter from John and Janice Cannon-Kyte addressed to Stafford Smith
Exhibit No. 134	Letter dated December 2, 1999, from Doniga Murdoch to Stafford Smith
Exhibit No. 135	Letter dated December 2, 1999, from Miriam Murdoch to Stafford Smith
Exhibit No. 136	King County Code Chapter 21.24 G General Classification (9-88)
Exhibit No. 137	KCC 19.28.030 Identification, description and delineation of existing and proposed conditions shown on plat.

Exhibits received at the Examiner's Office prior to close of the hearing record and admitted administratively:

Exhibit No. 138	Comment letter dated November 29, 1999, from Jim and Lisa McKay to Hearing Examiner
Exhibit No. 139	Letter dated November 29, 1999, from Jeff Everest to the Hearing Examiner, received December 9, 1999
Exhibit No. 140	Letter dated December 3, 1999, from Jim and Lisa McKay to the Hearing Examiner
Exhibit No. 141	Letter dated December 1, 1999, from Dave and Corinne Ridgley to Hearing Examiner
Exhibit No. 142	Hard copy of e-mail from Tayler Hawes to Hearing Examiner (Stafford L. Smith) sent December 3, 1999
Exhibit No. 143	Hard copy of e-mail from Donald Armstrong to Hearing Examiner set December 3, 1999 (transmission includes two pictures showing flooding problems of Patterson Creek)
Exhibit No. 144	Letter dated December 3, 1999, from Jim and Lisa McKay to Hearing Examinet

(including numerous colored photographs).

The following exhibits were admitted to the hearing record for **Shoreline File Nos. L98SH006, 007, and 008** :

Exhibit No. SH-1	Department of Development and Environmental Services Shorelines files identified with plat file DDES File No. S128903
.a	File No. L98SH006
.b	File No. L98SH007
.c	File No. L98SH008
Exhibit No. SH-2	Shorelines staff report dated November 2, 1999 (Attachment 2 to DDES staff report for File No. S128903)
Exhibit No. SH-3	Dates of shoreline application permits:
.a	File No. L98SH006 - April 17, 1998
.b	File No. L98SH007 - April 17, 1998
.c	File No. L98SH008 - April 17, 1999
Exhibit No. SH-4	Environmental documents:
.a	Draft Environmental Impact Statement (DEIS) dated August 1994
.b	DEIS Addendum dated March, 1999
.c	Final EIS and technical addenda and studies
Exhibit No. SH-5	Affidavits of Posting indicating May 23, 1998, and October 3, 1999, as dates of posting May 26,1998, and October 6, 1999, respectively, as the dates the affidavits were received by Department of Development and Environmental Services
Exhibit No. SH-6	Preliminary plans submitted April 17, 1998
Exhibit No. SH-7	Department of Development and Environmental Services File No. S12803 for the preliminary plat of Treemont
Exhibit No. SH-8	Date of publication for Notice of Application for DDES Shorelines files L98SH006, 007 and 008:
.a	Valley Record - May 28, 1998, as date of publication
.b	Seattle Times – May 26, 1998, as date of publication
Exhibit No. SH-9	Affidavit of Publication of Notice of Public Hearing dated October 7, 1999 (Seattle Times and Valley Record)
Exhibit No. SH-10	Assessor maps
.a	File No. L98SH006: Sections 5, 32, and 33, Range 24, Township 7
.b	File No. L98SH007: Sections 5, 6, 7, and 8, Range 24, Township 7
.c	File No. L98SH008: Sections 4, 5 and 6, Range 24, Township 7